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No. 96-1925

Supreme Court, U.S.

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**In the Supreme Court of the United States**

OCTOBER TERM, 1997

CATERPILLAR INC.,

*Petitioner,*

vs.

INTERNATIONAL UNION, UNITED AUTOMOBILE,  
AEROSPACE AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA and its affiliated  
LOCAL UNION 786,

*Respondents.*

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE THIRD CIRCUIT

**JOINT APPENDIX**

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CERTIORARI GRANTED SEPTEMBER 29, 1997

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The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari:

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**CHRONOLOGICAL LIST  
OF RELEVANT DOCKET ENTRIES**

Dec. 22, 1992—Plaintiff Caterpillar's complaint filed in the U.S. District Court for the Middle District of Pennsylvania.

Jan. 25, 1993—Defendant UAW's original answer filed.

Feb. 3, 1993—Defendant Local 786's original answer filed.

May 1, 1995—Defendant UAW's amended answer and affirmative defenses filed.

May 1, 1995—Defendant Local 786's amended answer and affirmative defenses filed.

Oct. 19, 1995—Plaintiff Caterpillar's motion for summary judgment filed.

Oct. 19, 1995—Defendants UAW and Local 786's motion for summary judgment filed.

Dec. 8, 1995—Judgment of District Court entered, granting Plaintiff Caterpillar's motion for summary judgment and denying Defendants UAW and Local 786's motion for summary judgment.

Jan. 5, 1996—Defendants UAW and Local 786's notice of appeal filed.

Aug. 8, 1996—Oral argument heard before panel of the U.S. Court of Appeals for the Third Circuit.

Oct. 11, 1996—Order of U.S. Court of Appeals for the Third Circuit, listing case for rehearing en banc.

Mar. 4, 1997—Opinion and judgment of U.S. Court of Appeals for the Third Circuit, reversing judgment of U.S. District Court for the Middle District of Pennsylvania.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Caterpillar Inc., Plaintiff

v.

International Union, United Automobile, Aerospace  
and Agricultural Implement Workers of America and  
its affiliated Local Union 786, Defendants

[EXCERPTS FROM THE CENTRAL AGREEMENT]

CENTRAL AGREEMENT  
*between*  
**CATERPILLAR INC.**  
*and the*  
**UAW**  
OCTOBER 21, 1988

*This Booklet also contains the*  
**LOCAL SUPPLEMENT**  
*for the*  
**YORK PLANT**  
*and*  
**LOCAL UNION 786**  
OCTOBER 21, 1988

\*\*\*

**ARTICLE 1**

**Purpose**

(1.1) The purpose of this Agreement is to establish harmonious relations between the parties and to facilitate orderly adjustment of grievances, complaints, and disputes which may arise from time to time between the Company and the Union. This Agreement is entered into in consideration of the mutual performance thereof in good faith by the parties.

(1.2) The parties agree that wherever words such as "he," "him," "his," "Committeeman," "Foreman," or similar words appear in this Agreement, appended Letters of Agreement, Exhibits, Local Agreements, or Agreements and Plans relating to Pensions, Group Insurance, Supplemental Unemployment Benefits, Employee Stock Ownership, Profit Sharing and Tax Deferred Savings Plan, it is understood that such words are considered asexual and refer to females and males equally.

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**ARTICLE 4**

**Representation**

(4.1) In order to provide a system of Union Representation for the processing and settlement of grievances the Committee representation structure for each Local shall be as set forth in this Article 4. The duties and privileges of such representatives, except the Chairmen in Local Unions Nos. 145, 751, 786, 974, and 209 shall be set forth in the appropriate Local Supplement.

#### A. Aurora Local No. 145

1. A Plant Grievance Committee composed of nine (9) employees, one of whom shall be the President of Local No. 145, one of whom shall be the Chairman of the Bargaining Committee, and seven of whom shall be elected from among the employees within the bargaining unit.

The Chairman of the Bargaining Committee shall perform the functions of his office in accordance with Section 4.6 of this Agreement.

2. International Representatives of the Union (not to exceed two (2)) may assist the Plant Grievance Committee at the third step of the grievance procedure.
3. The Committeeman shall represent employees as follows: One Committeeman to represent employees in Building H; one Committeeman to represent employees in Building B; one Committeeman to represent employees in Building G; one Committeeman to represent employees in Plant Engineering; one Committeeman to represent employees in Tool Room/Prove Design/Machine Repair/Tools and Supplies/Heat Treat; one Committeeman to represent employees in Inspection, Building B Assembly and Building K; one Committeeman to represent employees in Material Control.

#### B. Decatur Local No. 751

1. A Plant Grievance Committee composed of a maximum of eight employees who shall be

elected from among the employees within the bargaining unit.

2. A Chairman of the Grievance Committee elected from among employees in the bargaining unit, who shall perform the functions of his office in accordance with Section 4.6 of this Agreement.
3. Six (6) Committeemen shall represent employees as follows: one Committeeman to represent employees in Assembly; one Committeeman to represent employees in the Machine Shop; one Committeeman to represent employees in Materials; one Committeeman to represent employees in Plant Engineering, Tool Room, Prove Design and Machine Repair; one Committeeman to represent employees in Quality Control, Tools and Supplies; and one Committeeman to represent employees in Fabrication.
4. Two additional Committeemen may, at the request of the Union be elected to represent employees in areas mutually agreed to by the parties.

International Representatives of the Union may assist the Plant Grievance Committee at the Third Step Grievance Meeting.

#### C. York Local No. 786

1. Nine plant Committeemen shall be elected to represent bargaining unit employees as follows: Three Committeemen elected to represent first shift employees in Bldgs. C and J; D; B, E, N, P, S and Z in areas mutually agreeable to the



parties; three Committeemen elected to represent second shift employees in Bldgs. C and J; D; B, E, N, P, S and Z in areas mutually agreeable to both parties; three Committeemen elected to represent third shift employees in Bldgs. C and J; D; B, E, N, P, S and Z in areas mutually agreeable to the parties.

Additionally, an Alternate Committeeman shall be elected from among employees in the bargaining unit and shall perform his duties in accordance with the Local Supplement.

A Chairman of the Grievance Committee shall be elected from among employees in the bargaining unit and shall perform the functions of his office in accordance with Section 4.6 of this Agreement.

2. A Plant Grievance Committee composed of the President, Chairman and not more than nine Committeemen.
3. An International Representative of the Union may assist the Plant Grievance Committee at the Third Step of the grievance procedure, or the Review Committee at the Fourth Step.

D. Peoria Local No. 974

There shall be 14 Third Step Grievance Committees as herein set forth. One full-time member of each Third Step Grievance Committee shall be the Chairman. The number of full-time Committeemen, one of whom shall be the Chairman, and the number of part-time Committeemen on each Committee shall be as follows:

Plant or Zone	No. of Part-Time Committeemen	No. of Full-Time Committeemen
East Peoria Plant		
Bldg. HH	2	1
Bldgs. KK & SS	2	2
Bldgs. LL & NN	2	1
Tool Room	1	2
Plant Engineering	2	1
Material Control & Transportation	2	1
Bldgs. J thru X	2	1
Mapleton Plant	2	2
Morton Plant	2	2
Mossville Plant	2	1
Bldgs. BB & CC		
Bldg. B	2	1
Bldg. DD	2	1
Technical Center	2	1
Chemical Products Manufacturing	1	2

The Chairman of each Committee shall be assigned to the first shift and shall perform the functions of his office in accordance with Section 4.7. The full-time Committeeman, other than the Chairman, shall perform his duties in accordance with the Peoria Local Supplement.

There shall be one Bargaining Committee made up of the Chairman of each Third Step Grievance



Committee or his alternate; the President or Acting President of the Local Union; the Bargaining Chairman; and Representatives of the International Union.

Modification in this general arrangement heretofore provided in this Article may be made by mutual written agreement in order to provide adequate representation and to facilitate the handling of individual grievances.

E. Denver Local No. 1415

A Grievance Committee shall be composed of five employees, one of whom shall be the President of the Local who shall serve as Chairman of the Second Step Grievance Committee, and three stewards, two from first shift, one from second shift and one from third shift. The Company agrees to pay for regularly scheduled hours for up to two stewards.

An International Representative of the Union may assist the Grievance Committee at the Second Step of the grievance procedure.

In addition to performing the duties and privileges set forth in the foregoing provisions of this Section 4.1 (E) and/or Denver Local Supplement, the President of the Local Union may conduct Union business without loss in pay for regularly scheduled hours for a maximum of eight hours per week.

F. Memphis Local No. 1989

A Grievance Committee composed of four employees, one of whom shall be the President/Bargaining Chairman of the Local, one of whom shall be

elected among the employees on first shift, one of whom shall be elected among the employees on second shift, and one of whom shall be elected among the employees on third shift. The employee elected to serve as President/Bargaining Chairman of the Local Union shall be assigned to the first shift, provided there is work available that the President/Bargaining Chairman can perform without being trained.

If a Committeeman is absent, the President/Bargaining Chairman may function in place of such Committeeman in the grievance procedure. If such absence is going to be for a full day or more, an alternate Committeeman will be permitted to function in the grievance procedure provided the Company is given one workday prior notification.

An International Representative of the Union may assist the Grievance Committee at the Second Step of the grievance procedure.

In addition to performing the duties and privileges set forth in the foregoing provisions of this Section 4.1(F) and/or Memphis Local Supplement, the President/Bargaining Chairman of the Local Union may conduct Union business without loss in pay for regularly scheduled hours for a maximum of eight hours per week.

G. Pontiac Local No. 2096

A Grievance Committee composed of five employees, one of whom shall be the Bargaining Chairman of the Local; one of whom shall be elected from among employees in the Tooling/Tool Grinding and Plant Engineering Non-Interchangeable

Occupational groups and shall be an employee within the groups he represents; one of whom shall be elected from among the other employees on first shift; one of whom shall be elected from among the employees on second shift; and one of whom shall be elected from among the employees on third shift. The employee elected to serve as Bargaining Chairman of the Local Union shall perform the functions of his office in accordance with Section 4.6 of this Agreement. The Committeeman elected from each shift shall be an employee within the shift he represents.

If a Committeeman is absent, an alternate Committeeman will be permitted to function in the grievance procedure provided the Company is given a one workday prior notification.

An International Representative of the Union may assist the Grievance Committee at the Third Step of the grievance procedure.

(4.2) Union Representatives will handle grievances with least possible interference with production and efficient operations. Consistent with the foregoing provisions of this Article 4, Union Representatives are granted certain privileges for which they are paid as set forth in this Agreement and the appropriate Local Agreements. The Company will not be required to pay Union Representatives in any instance where:

1. A Union Representative fails to follow or observe the provisions setting forth such privileges, or
2. The amount of time spent in the exercise of such privileges is unreasonable.

In order to administer the above provisions in a consistent and fair manner and to establish the amount of time involved in any dispute arising therefrom, a Union Representative will secure a pass as provided in Section 4.3 of this Agreement.

In any case involving a Steward or Committeeman other than the Chairman, in which pay is denied, the Company will notify the Chairman of the appropriate Final Step Grievance Committee of such pay denial and the reason therefor. Any dispute arising from such pay denial may be taken up as a grievance which shall be presented directly to the Final Step of the appropriate Local grievance procedure. Prior to the Final Step meeting at which such dispute will be discussed, the Chairman of the Final Step Grievance Committee and the Labor Relations Manager (or his designated representative) may conduct a joint investigation of such pay denial which shall include hearing statements from the Management representative and the Union Representative involved as to the circumstances of such pay denial.

The foregoing provisions of this Section shall not be applicable to Local 974.

In Local 974, Union Representatives will handle grievances with least possible interference with production and efficient operations. If in any instance the Company feels that such privileges are being abused, it shall so notify the Local Union, in writing, and in the event the abuse is not then corrected, or an understanding not reached, the Company may suspend the privileges of the Union Representative involved. Any dispute arising therefrom may then be taken up under the grievance procedure.



The Company agrees that the provisions of Sections 4.2 or 4.3 will not be administered in such a manner that Union Representatives will be denied the privileges granted Union Representatives in the performance of the functions permitted such representative under this Agreement or the appropriate Local Agreement.

(4.3) If, in the handling of a grievance in accordance with the provisions of this Agreement, or the appropriate Local Agreement, it is necessary for an employee or a Union Representative to leave his line, unit or immediate working area, the employee or Union Representative shall secure a pass from his immediate Supervisor. Such pass shall indicate the reason for the issuance of the pass and the area or areas which the Union Representative is authorized to enter. The Union Representative will present the pass to the Supervisor of the area for which the pass was issued and indicate the employees he wishes to contact.

(4.4) Each Local Union shall provide the Company with a list of all Union Representatives, members of Grievance Committees, members of the Bargaining Committee, and officers of the Local Union. Each Local Union shall notify the Company of any changes in this list as promptly as possible. The Company agrees to provide each Local Union with a list of supervisory employees, by departments and shifts, who are authorized and designated to handle grievances under the local grievance procedure. The Company shall notify the Local Union of any changes in this list as promptly as possible.

(4.5) Upon request to a Plant Labor Relations Department, International Representatives of the Union (not to

exceed two) shall be granted permission to visit a plant during working hours for the purpose of investigating any specific grievance which is pending the Final Step of the grievance procedure, or which is scheduled to be heard at an arbitration hearing, and the proper investigation of which requires entry into that plant. The Company will acknowledge the request and will set a time which is mutually agreeable for such visit. A member of the Final Step Grievance Committee and the Local Union President and Chairman of the Local Bargaining Committee may accompany the International Representative(s) during such visit.

Management representatives may accompany the Union Representative(s) during such visit. Such visits shall be of reasonable duration, and during these visits the International Representative(s) may interview the aggrieved employee or employees, provided the interviews do not materially interfere with production and efficient operation. The International Representative(s) shall be subject to all plant rules and regulations while engaged in such visit.

(4.6) Except in Local No. 974, the provisions of this Section 4.6 will apply only to bargaining units in which the parties have agreed a full-time Chairman will be paid by the Company as hereinafter set forth.

The privileges granted to the Chairman of the Grievance Committee are: (1) act in place of an absent Committeeman; (2) serve as a Committeeman for a specific area, plant or location if the appropriate Local Agreement so provides; (3) investigate grievances pending the Third and/or Final Step of the grievance procedure if permitted under the appropriate Local Agreement pro-



vided no other Committeeman has made such an investigation for such purpose; (4) discuss Third and/or Final Step grievances with Company representatives as provided in the Third and/or Final Step of the appropriate grievance procedure; (5) participate in joint investigations agreed to in a Third and/or Final Step Grievance meeting; (6) consult with the Regional Director of the International Union, or his designated representative, on the disposition of any grievance denied in the Third and/or Final Step of the grievance procedure and/or to prepare a statement of all facts and circumstances on a grievance that will be forwarded to the UAW-Agricultural Implement Department, if such be the case. Such Chairman will exercise only the privileges above set forth or those which have otherwise been mutually agreed upon.

The Chairman of the Grievance Committee shall conduct his business from the Local Union office. He shall be considered to be on a leave of absence and will be paid by the Company for his regular shift hours during the regular workweek (excluding Saturdays, Sundays and holidays) that employees in his jurisdiction are scheduled to work, provided, however, the Company shall not pay for time spent in (i) negotiations, (ii) vacations, (iii) attendance at meetings and/or conventions not held in the Local Union office, or (iv) any activity not directly related to the functions of his office. Any such Chairman who spends at least 8 hours in a workweek exercising the privileges and/or performing the legitimate duties of his office as set forth above will receive an additional 6 hours pay for such. He shall be paid for all such hours at the regular straight-time hourly rate he was receiving just prior to his election adjusted for general increases

and cost-of-living adjustment amounts, if such there be, as provided in Article 18 of this Agreement. He shall be eligible for time off and/or payments in accordance with Articles 9, 10, 15 and 20 of this Agreement, provided such Chairman will not receive payment for the same day under more than one of the provisions of this Central Agreement. For purposes of the Supplemental Agreement relating to Non-Contributory Pension Plan, the Group Insurance Plan attached to the Insurance Plan Agreement, and the Supplemental Unemployment Benefit Plan, such Chairman will have the same coverage as though he was actively at work.

The Chairman of the Final Step Grievance Committee will be issued a permanent pass, valid for his term in office, to be used to gain entrance to the plant (except those areas designated as being restricted by the Company) and for the performance of the privileges granted to him pursuant to this Section 4.6. Entrance to restricted areas may be gained only with prior approval from the Plant Labor Relations Department. Upon entry into the Plant, the Chairman will immediately present such pass to the area Supervisor and state the purpose of his visit before exercising any of the privileges specifically granted. The Chairman will conduct his business with the least possible interference with production and efficient operations. This pass will be issued through the Labor Relations Department and will remain in effect provided it is used only in accordance with this provision.

When it is necessary for the Chairman to be absent for a full day or more, he may be replaced by an Alternate who will function as hereinbefore set forth, provided the Company is notified in advance of such absence.

(4.7) In Local 974, the privileges of the Chairman of the Third Step Grievance Committee are: (1) serve as a Committeeman; (2) act in place of an absent Committeeman; (3) function as described in (1) above with regard to Step 3 grievances in his jurisdiction on any shift at locations outside of the geographical area of his zone or plant; (4) consult with the Regional Director of the International Union, or his designated representative, on the disposition of grievances denied in the Final Step of the grievance procedure and/or to prepare a statement of all facts and circumstances on a grievance that will be forwarded to the UAW-Agricultural Implement Department, if such be the case. The Chairman shall exercise only those privileges above set forth or those which have otherwise been mutually agreed upon.

If in the performance of the above it is necessary for the Chairman of the Third Step Grievance Committee to leave his assigned work location, he shall log out and obtain a pass from a designated Company representative. The Chairman will present such pass to the area Supervisor before exercising any of the above listed privileges and will return the pass to the designated Company representative and log in when returning to his assigned work location. The Chairman shall exercise such privileges only during the regular workweek (excluding Saturdays, Sundays and holidays) provided, however, the Chairman may use such assigned work location to perform administrative clerical functions on Saturdays, Sundays and holidays. The Chairman shall be subject to all plant rules and regulations.

The Chairmen of the Third Step Grievance Committees shall be considered as on a leave of absence from the Company but shall be paid by the Company for their

regular shift hours during the regular workweek (excluding Saturdays, Sundays and holidays) of the zone or plant they represent but only for such hours that they are in such zone or plant exercising the privileges described in this Section 4.7 or duties in conjunction therewith (excluding all time spent in negotiations and/or arbitration). Each such Chairman who spends at least 8 hours per week in the plant exercising such privileges will receive an additional 6 hours pay for such week. They shall be paid for all such hours at the regular straight-time rate they were receiving just prior to the election (excluding night shift premium) adjusted for general increases and cost-of-living changes as defined in Article 18 of the Central Agreement. They shall be eligible for time off and/or payments in accordance with Articles 9, 10, 15 and 20 of the Central Agreement. For purposes of the Supplemental Agreement relating to Non-Contributory Pension Plan, the Group Insurance Plan attached to the Insurance Plan Agreement, and the Supplemental Unemployment Benefit Plan, such Chairmen will have the same coverage as though they were actively at work.

When it is necessary for the Chairman of a Third Step Grievance Committee to be absent from the zone or plant he represents, he shall notify the Company's designated representative in advance of such absence. If he is going to be absent for a full workday or more, he may be replaced for any such full workday of absence by his alternate who shall also be an employee from the zone or plant he represents.

The Bargaining Unit Chairman will be granted a permanent pass, valid for his term in office, subject to the provisions below that may be used to gain entrance



to all Company facilities (except those areas designated as being restricted by the Company) where bargaining unit employees are working. Entrance to restricted areas may be gained only with prior approval from the plant Labor Relations Department. Such pass may be used only for the purpose of entering the facility to see the Chairman of the Divisional Grievance Committee, Labor Relations Representative, or the designated Third Step Company Representative. This pass will be issued through the Labor Relations Department and will remain in effect provided it is used only in accordance with this provision.

(4.8) The appropriate Committeeman or Chairman will be permitted to discuss the final disposition of the grievance in the grievance procedure with the aggrieved employee.

## **ARTICLE 5**

### **Grievance Procedure**

(5.1) A grievance is defined to be any difference which may arise between the parties, or between the Company and an employee covered by this Agreement as to:

- a. Any matter relating to wages (except general wage adjustments) and including but not limited to merit increases, incorrect classification within a given occupation, or incorrect classification as to occupation, hours of work or working conditions, not covered by this Agreement; and
- b. Any matter involving the interpretation, application or violation of any provisions of this Agreement, appended Letters of Agreement or appropriate Local Agreement.

(5.2) It is mutually desired that grievances be satisfactorily settled as quickly as possible.

When a grievance arises, the employee shall identify the issue by indicating the specific action or nonaction on the part of the Company which prompts the grievance whereupon the Foreman shall, without undue delay, send for the Steward and an earnest effort will be made to settle the grievance in accordance with procedures provided in the Local Agreements.

The parties jointly recognize that it is desirable to resolve, if possible, any question of fact relevant to any grievance at as early a Grievance Step as is reasonably possible and will cooperate with each other in an effort to do so; such cooperation shall extend, in appropriate cases, to joint investigation to establish the relevant facts.

(5.3) Termination of any grievance in the First Step or, in locations having a Three or Four Step grievance procedure, the Second Step of the local grievance procedure, either by the Company granting relief in whole or in part or by the Union withdrawing or dropping the grievance, shall not constitute a precedent for the settlement of any future grievance in any Step of the grievance procedure or in support of either party's position in arbitration; however, any such "no precedent" termination shall not constitute an eradication of the events which led to the Company action or nonaction of which the grievance complained.

(5.4) No claims against the Company, including claims for back pay, by an employee covered by this Agreement, or by the Union, shall be retroactive to any period more than 12 months prior to the date the grievance was first filed in writing.



In the case of a discharged employee, all claims for back pay shall be limited to the amount of wages the employee would otherwise have earned from his employment with the Company, less the following:

1. Any Unemployment Compensation which the employee is not obligated to repay or which he is obligated to repay but has not repaid nor authorized the Company to repay on his behalf.
2. Compensation for personal services other than the amount of compensation he was receiving from any other employment which he had at the time he last worked for the Company and which he would have continued to receive had he continued to work for the Company during the period covered by the claim.

Wages for total hours worked each week in other employment in excess of the total number of hours the employee would have worked for the Company during each corresponding week of the period covered by the claim shall not be deducted.

(5.5) Employees shall be given disciplinary layoff, suspended from employment, or discharged only for just cause. In imposing disciplinary layoff, suspension or discharge on a current charge, the Company will not take into account any prior infractions (including falsification of employment application) which occurred more than three years previously nor, in the case of attendance infractions, any days of absence paid under Section 15.1 for which prior approval had been granted by the Company for such absence. In the event an employee has been given disciplinary layoff, suspended from employment, or discharged, his Foreman will send for the

employee's Committeeman to discuss, for such time as may reasonably be necessary, the case with the employee. In the event the employee's Committeeman is not available, the appropriate Union representative will be called.

Within a reasonable time (not to exceed 5 working days) after disciplinary layoff, suspension from employment or discharge has been imposed, either party may request that a disciplinary hearing be conducted by the appropriate Final Step Company representative. At the disciplinary hearing, the employee shall have the right to be present and the appropriate Committeeman shall have the right to represent him. If the parties mutually agree, witnesses may be jointly interviewed so the relevant facts can be ascertained. Employees at work who participate in a disciplinary hearing will not lose pay for regularly scheduled hours spent in such hearing.

Grievances involving disciplinary layoff, suspension or discharge may be presented, in writing, directly to the Final Step of the local grievance procedure. The Company must be notified of a claim of wrongful disciplinary layoff, suspension or discharge within fifteen calendar days after same occurs, and the case shall be taken up promptly and diligent efforts made to dispose of it.

(5.6) An employee who receives a warning will, where the act resulting in the warning would constitute cause for disciplinary action if continued, be given a written notice setting forth his name, badge number, date of the warning and the reason for the warning.

(5.7) If, in the Final Step of the local grievance procedure, the Union considers as unsatisfactory the Company's decision on a grievance which has as its basic issue

a medical disagreement wherein the findings of the Company's physician or physicians are in conflict with the findings of the employee's personal physician, the medical question shall be submitted to a third physician mutually agreed to by the parties within five working days following the Company's decision on such grievance. The medical opinion of the third physician after examination of the employee and consultation with the other two physicians shall resolve such conflict. A copy of the third physician's findings shall be supplied to both the Company and the Union. The expense of the third physician shall be paid one-half by the Company and one-half by the Union, each of whom will be billed separately by the third physician for their share of such expense.

Each Local Union may, at its option, develop with the Company a list of mutually agreeable physicians including specialists, and/or medical facilities to which such medical disputes may be referred.

\* \* \*

## ARTICLE 8

### Health and Safety

(8.1) The Company, the Union and employees will cooperate toward the prevention of accidents and furtherance of a safety program. The Company will continue in its efforts to protect and promote the health of all employees. The Company will endeavor to maintain a clean, property lighted, heated and ventilated factory with approved safety devices and will maintain a well-equipped Medical Division at those plants where such is practical, or, alternatively will make arrangements for

medical services to be provided by a licensed physician at a reasonably convenient location.

(8.2) Each plant shall have a Safety Committee, composed of management and Union representatives, in accordance with the provisions of applicable Local Agreements. It shall be the duty of the Safety Committee to meet on a monthly basis without loss of pay for regularly scheduled hours. A copy of the minutes of such monthly meetings will be provided to members of the Safety Committee. Such minutes shall include: the date of the meeting, names of the individuals present, a brief statement of items discussed and the consensus of disposition, if any, reached on those items.

The functions and objectives of the Safety Committee will be:

- a. To encourage the observation of safety rules and the furtherance of the safety program.
- b. To review serious or unusual injuries and illness experienced within the plant and recommend possible corrective measures where appropriate.
- c. To review significant developments of mutual interest in the industrial health and safety field and consider the applicability of such developments to the plant.
- d. To review new manufacturing equipment and major process changes where employee health or safety may be affected and make appropriate recommendation.
- e. To review established and proposed safety procedures for recognized hazardous materials and physical hazards (noise, heat and radiation) to which



employees are exposed and make appropriate recommendations.

- f. To review significant changes in the Company's health and safety programs due to legal requirements or Company-initiated revisions. The Company will supply this information to the Committee in advance of implementation to allow sufficient opportunity to discuss these programs and make appropriate recommendations for improvement.
- g. To review and recommend safety-related improvements in current safety training programs, such as vehicle operator safety training, machine operator safety training and hazardous material training.

#### (8.3) Safety Procedure

Stage 1: An employee who believes that a condition has developed which presents a significant threat to his safety should promptly notify his Foreman of such condition. The Foreman shall determine, as promptly as possible, whether such condition represents a significant threat to the safety of the employee or employees involved and, if indicated, initiate appropriate corrective measures.

Stage 2: If a satisfactory solution to the problem cannot be agreed upon in Stage 1, the employee may request and the Foreman shall, without undue delay, send for the Safety Subcommitteeman (if such there be) in whose jurisdiction the condition exists for the purpose of conducting a Stage 2 joint investigation of the problem with the Foreman. Such investigation may also receive the attention of the General Foreman (if such there be). At plants where Safety Subcommittees have not been established, the Safety Committeeman in whose jurisdic-

tion the condition exists will be called initially as provided herein.

Stage 3: If a satisfactory solution to the problem cannot be agreed upon in the foregoing Stage 2 joint investigation, the investigation may be broadened at that time, if the Union Safety Subcommitteeman or Committeeman, as the case may be, so requests of the Foreman, by the addition of (1) the Chairman of the Union Safety Committee (in the Peoria area, the Divisional or Plant Safety Committeeman, and in the Decatur Plant the Safety Committeeman, in whose jurisdiction the condition exists), (2) the Superintendent of the area, or his designated representative, and (3) the Company Safety Supervisor or his designated representative. It is understood that the Union representatives specified in (1) above will have designated alternates on the other two shifts who will function in their stead on shifts other than the shifts on which the representatives specified in (1) above work and that the Company will have been notified of these designated alternates. If a satisfactory solution to the problem is not arrived at within 3 working days the employee will be notified of the status of his complaint.

Stage 4: If a satisfactory solution to the problem has not been agreed upon at the conclusion of the Stage 3 joint investigation, a grievance may be filed directly, within five working days, to the Final Step of the grievance procedure by the member of the Final Step Grievance Committee within whose jurisdiction the alleged unsafe condition exists, and such grievance thereafter may be processed through the grievance procedure and, if not resolved, to arbitration.

Prior to the submission of the written grievance, the above designated member of the Final Step Grievance



Committee may discuss the safety problem with the appropriate Safety Committeeman provided that the Grievance Committeeman notifies the appropriate Final Step Company representative that the safety problem is being referred to the grievance procedure.

Union Safety representatives specified in (1) of Stage 3 of this Section 8.3, if desiring to investigate or discuss a condition of safety other than as provided above, may request their Supervisor to notify the Company Safety Supervisor. The Safety Supervisor, or his designated representative, upon such notification, will meet the Committeeman at his place of work to discuss the matter involved or, if mutually desired, to jointly investigate the condition in question.

Notwithstanding the above, and in addition to the other provisions of this Section, if a condition or practice comes to the attention of a Safety Committeeman which he believes to constitute a serious hazard which immediately imperils the health or safety of an employee or employees, the Safety Committeeman is authorized to bring such condition or practice to the attention of the Factory or Division Manager or, if he not be present, to his designated representative, forthwith.

It is understood and agreed that conditions challenged as unsafe, safety complaints, alleged violations of the safety provisions of this Agreement, etc., will not be processed through the First or Second Steps of the grievance procedure.

Nothing in this Section 8.3 shall be construed to restrict the employee's rights under Section 502 of the Labor Management Relations Act of 1947.

(8.4) Whenever a physical examination or laboratory test has been made of an employee by physicians acting for the Company, a report thereof will be given to the employee and/or the personal physician of the employee involved upon the written request of such employee. However, if such examination or test discloses an abnormal condition, the employee will be so advised.

The Company will provide pulmonary function tests for Foundry employees, as deemed necessary by the plant Medical Director. For those employees who, because of the nature of their work, are required by the Company to wear respirators, the Company will provide medical evaluations of the respiration functions on at least an annual basis.

Once during the term of the current agreement the Company will make available, on an off-shift basis, appropriate physical tests (as deemed by the plant medical director) to employees in welding classifications and employees in classifications that perform oil, quench heat treat operations.

(8.5) Whenever it is determined by Company monitoring or tests that employees have had exposure exceeding the permissible level as set forth in 29 CFR 1910.1000 Air Contaminants, Code of Federal Regulations, such information shall be provided in writing to the Chairman of the Local Union Safety Committee or, in the Peoria area, to the appropriate Plant or Divisional Safety Committeeman. Such information shall also be provided to the Central Committee on Health and Safety.

(8.6) If, as the result of an employee complaint, the Company conducts a test of noise, air contaminants or air flow, the results of such tests shall be explained to

the employee involved and to the Chairman of the Local Union Safety Committee or, in the Peoria area, to the Plant or Divisional Safety Committeeman.

(8.7) In addition to the other provisions of this Article 8, if a condition comes to the attention of the Chairman of a Local Union Safety Committee (or in the Peoria area, the President of Local 974)

- (i) which involves noise, air contaminants or air flow, and
- (ii) which he feels constitutes a health hazard to employees, and
- (iii) about which he has been unable to obtain a satisfactory explanation or response from Company Safety representatives,

such Chairman prior to the filing of a grievance in the Final Step of the grievance procedure may submit a written request to the Central Committee on Health and Safety that such Committee conduct a joint investigation in accordance with item 3 of Letter of Agreement No. 3. If such an investigation is conducted, the Chairman of the Local Union Safety Committee and/or the Local Union President or his designated representative will be allowed to meet with the investigating Central Committee members before and after such investigation in order to explain his complaint and to receive an explanation of the Central Committee's findings.

(8.8) The Company shall be the sole source of safety glasses approved for wear in designated safety glasses areas. Such safety glasses shall be provided by the Company at no cost to the employee subject to the following:

- a. For nonprescription safety glasses, the Company shall furnish the first pair without cost to the employee and such glasses shall remain the property of the Company. Replacement pairs, if necessary, shall be at the employee's expense as provided in (c) below.
- b. For employees requiring them, prescription ground safety glasses shall be provided at no cost to the employee; provided that such safety glasses shall, except as provided in (c) below, be furnished upon receipt by the Company of a revised prescription. However, such replacements due to revised prescriptions will not be furnished more often than once per year. Such glasses shall thereafter be the sole property of the employee. A prescription for ground safety glasses will be accepted by the Company when the prescription is based on an examination made by a qualified eye doctor within the two preceding years, provided that the Company shall in no instance be obligated to pay any part of the cost resulting from a prescription for non-standard frames, special temples, tinted or any other type of special glasses not required by reason of the employee's work at the Company.
- c. When the nature of an employee's work results in damage to either nonprescription or prescription-ground safety glasses to the extent that the company's Safety Supervisor advises replacement, the replacement cost will be borne by the Company.
- d. On either nonprescription or prescription ground safety glasses, if an employee desires pairs of glasses in addition to those provided in (a), (b) or



(c) above, the employee may purchase them from the Company at the Company's cost.

(8.9) When the Company determines that the nature of a job requires the wearing of special protective garments or safety devices, other than safety glasses, the Company will furnish the equipment without cost to the employees and will require the wearing or use of such safety equipment as a condition of employment.

(8.10) When the Company determines that the nature of a job requires the wearing of metatarsal protection, employees shall have an option of wearing auxiliary equipment provided by the Company or of purchasing safety shoes with special metatarsal protection. In the event employees elect to purchase safety shoes with metatarsal protection, and where such purchase is made at a Company-approved source, the Company will contribute the sum of \$13.00 toward the purchase of each pair of such shoes.

(8.11) The Company and the Union recognize the obligation imposed upon the parties to this Agreement by the Occupational Safety and Health Act. When an employee, who has been designated for this purpose as a representative of the employees in the bargaining unit, accompanies an OSHA inspector on an official plant inspection tour at the inspector's request, he shall not lose pay for regularly scheduled hours during such tour. More than one employee may participate as a designated representative but no more than one such designated representative shall act in such capacity at any one time and no more than one such designated representative will be paid for the same hours.

Notwithstanding the previous paragraph, when two OSHA inspectors make simultaneous and separate inspection tours, one designated representative may participate with each OSHA inspector and they shall not lose pay for regularly scheduled hours during such tours.

(8.12) The Company will provide to the Union Central Safety Committee a copy of each facility's report on OSHA Form #200 and the man-hours worked at each such facility during the period covered by such report.

(8.13) (Applicable to Local 974 only)

The privileges which the Chairman of the Safety Committee may exercise are: (1) investigate safety grievances active in the Final Step of the grievance procedure, (2) discuss Final Step safety grievances with Company representatives as provided in the grievance procedure, (3) participate in joint safety investigation agreed to in a Final Step grievance meeting, and (4) consult with Union members of the Central Health and Safety Committee and/or the Regional Director of the International Union or his designate on the disposition of any safety grievance denied in the Final Step of the grievance procedure and/or prepare a statement of all facts and circumstances on a safety grievance that will be forwarded to the UAW-Agricultural Implement Department. If such be the case, such Chairman will exercise only the privileges above set forth or those which otherwise have been mutually agreed upon.

The Chairman of the Safety Committee shall conduct his business from the Local Union office. He shall be considered to be on a leave of absence and will be paid by the Company for his regular shift hours during the regular workweek (excluding Saturdays, Sundays and

holidays) that employees within Local 974 are scheduled to work, provided, however, the Company shall not pay for time spent in (i) negotiations, (ii) vacations, (iii) attendance at meetings and/or conventions not held in the Local Union office, or (iv) any activity not directly related to the functions of his office. Any such Chairman who spends at least 8 hours in a workweek exercising the privileges and/or performing the legitimate duties of his office as set forth above will receive an additional 6 hours pay for such. He shall be paid for all such hours at the regular straight-time hourly rate he was receiving just prior to his election (excluding night shift premium) adjusted for general increases and cost-of-living adjustment amounts, if such there be, as provided in Article 18 of this Agreement. He shall be eligible for time off and/or payments in accordance with Articles 9, 10, 15 and 20 of this Agreement, provided such Chairman will not receive payment for the same day under more than one of the provisions of this Central Agreement. For purposes of the Supplemental Agreement relating to Non-Contributory Pension Plan, the Group Insurance Plan attached to the Insurance Plan Agreement, and the Supplemental Unemployment Benefit Plan, such Chairman will have the same coverage as though he as actively at work.

The Chairman of the Peoria Area Safety Committee will be issued a pass upon request to the Labor Relations Department to gain entrance to the plant for the performance of the privileges granted to him as set forth in this Section 8.13.

Such visit shall be limited to the area designated on the pass and must be presented to the Supervisor of the area for which the pass was issued and indicate the employees he wishes to contact. Such pass will be re-

turned to the Labor Relations Department when leaving the plant. Management representatives may accompany the Peoria Area Safety Committee Chairman during such visit.

\* \* \*

## ARTICLE 14

### Leaves of Absence

(14.1) Leaves of absence shall be granted automatically to employees who, because of physical or mental disability, are unable to work and who provide the Company with proper notice and evidence of such disability.

If the leave of absence is not approved, or, if approved, is later cancelled by the Company, the employee shall be so notified in writing with a copy of such notice given to the Union.

Any dispute arising from this action shall be presented, in writing, directly to the Final Step of the appropriate local grievance procedure and, if applicable, the provisions of Section 5.7 shall be utilized. It is understood that an employee will not be discharged while any such above-described dispute is being processed provided the employee and the Union, within 5 regularly scheduled workdays of receipt of such notice, process such dispute and cooperate in utilizing such procedure.

Notwithstanding the foregoing provisions of this Section 14.1, a disability leave of absence shall be in effect only for the period of the physical or mental disability and in any event the leave shall automatically expire upon completion of a leave period equivalent to the employee's accumulated seniority at the time he became



disabled, or two years, whichever is greater; provided, that if the employee is entitled to receive total disability benefit payments in accordance with paragraph 4.4 of the Group Insurance Plan, his leave shall automatically expire at the end of the last month for which he is entitled to such a payment, if later, and further provided that any successive period of physical or mental disability due to the same or related cause or causes not separated by a period of active full-time work of not less than ten consecutive regularly scheduled days of work during which the employee works all regularly scheduled hours he was scheduled to work (any absence on any such day of work on which the employee would have worked except that he was excused by the Company and compensated for such absence under the provisions of Sections 15.3, 15.4 or 15.5 of this Agreement shall be deemed to be days of work for purposes of this Section 14.1) shall be considered a continuation of the previous period of disability.

Not later than 10 days prior to such automatic expiration, the Company will send a registered letter to the employee's last known address as shown on the Company records reminding him of the fact that his seniority is subject to being broken if he fails to return to work upon expiration of his leave of absence.

(14.2) Upon expiration of a total disability leave of absence, the employee shall either return to work or be separated by the Company as a quit. However, if later reemployed by the Company, the employee who was entitled to receive total disability benefit payments in accordance with paragraph 4.4 of the Group Insurance Plan shall be entitled to his accumulated seniority up to the date of such separation.

(14.3) In accordance with the applicable provisions of Local Agreements, the Company will promptly return to work an employee who is able to return from leave of absence.

(14.4) Employees who fail to return to work upon expiration of a leave of absence shall be separated from the employment of the Company, unless satisfactory reason is given.

(14.5) Except as otherwise herein provided, the granting of other leaves of absence by the Company shall depend (1) upon the reason for the requested leave of absence and (2) upon the need for the employee's uninterrupted services.

(14.6) When a leave of absence is granted by the Company, it shall be verified, in writing, upon request, of the employee.

All leaves of absence shall be without pay, except as expressly provided elsewhere in this Agreement, and seniority shall accumulate during such leaves.

An employee who accepts employment elsewhere, during a leave of absence, without the consent of the Company, shall be deemed to have voluntarily quit.

An employee on disability leave will be advised by the Company of the Company's position regarding employment elsewhere while on such leave. An employee on such leave must advise the Company of any employment elsewhere and he will receive approval for the employment if it is not inconsistent with needed medical treatment.

(14.7) Any employee who, in time of war or national emergency, is drafted or volunteers into the armed forces

of the United States shall be granted a leave of absence, and will be accorded reinstatement rights, as provided by law then in force. Such employee shall also, when date of entry into the armed forces has been determined and established, be entitled to a leave of absence not to exceed the three weeks immediately prior to such entry.

(14.8) Any employee who volunteers and is accepted for service in the Peace Corps shall, upon proper notice to the Company, be granted a leave of absence for a tour of such Peace Corps service. Upon his return from Peace Corps service, he shall be granted the same reinstatement rights as are provided by law then in force in respect to service in the armed forces of the United States.

(14.9) An employee who becomes pregnant will, upon request, be granted a personal leave of absence of reasonable duration under Section 14.5 immediately preceding or following the period of disability associated with the pregnancy or birth if the employee's personal physician, after consultation with the Company's physician, recommends such additional leave as being beneficial for the health or well-being of such employee.

(14.10) Any employee who is elected or appointed to a position with the Union or who is elected or appointed to a temporary national governmental position, or who is elected to a State office, or who is appointed to a temporary position in the Department of Labor or Industrial Commission of his State or the Department of Labor of the United States, shall, upon written request, be granted a leave of absence for the period of such service, provided that no more than the number specified in the appropriate Local Agreement shall be on such leave of absence at any one time.

#### An employee

- (i) who is elected to a public office in a town, municipality, township, county, or comparable governmental body;
- (ii) who must occasionally take time off from work in order to perform the necessary functions of such office; and
- (iii) who obtains prior approval from the Company to be absent from work; shall be deemed to be on a leave of absence for any such full day of absence (eight consecutive hours) for such purpose.

The Company will grant time off, without pay, to employees for the purpose of attending Union meetings, provided (1) the Company is given advance notice who the employees will be and the date and hour the time off will be taken, such advance notice to be given by the Union not later than noon on the workday preceding such time off, and further provided (2) that not more than the number of employees specified in the appropriate Local Agreement will be granted such time off during any one day. However, in cases of emergency and for the purpose of conducting Union elections time off shall be granted employees upon request of the Union. Time off will also be granted for the purpose of meeting with Company representatives.

Temporary leaves of absence will be granted upon request of the Union for employees who are selected by the Union to attend state, national, or international Union conventions, regional or district Union Conferences.

(14.11) Employees returning from authorized leave or time off for Union business (other than long-term leave



granted to employees elected or appointed to a full-time position with the Local or International Union) will not be required to undergo a return-to-work physical examination before resuming their work in the plant unless during periods of such absences such employees have been ill or injured.

## ARTICLE 15

\* \* \*

### (15.3) Jury Duty and Witness Service

Any full-time employee who has more than 30 days of seniority and/or group seniority (if applicable) who either

- (i) is summoned and reports for jury duty in a Court of Record or Grand Jury, or
- (ii) is required by applicable law to appear for examination by a jury commission prior to such jury service, or
- (iii) is subpoenaed and reports for witness service in a Court of Record or Grand Jury

will be reimbursed by the Company, for each day on which he would otherwise have been scheduled to work, in accordance with the succeeding provisions of this Section 15.3.

- a. If he is absent for his entire shift because of such jury duty or witness service, he will be paid the difference between his jury duty pay or witness fees received and eight hours pay at his straight-time hourly rate.
- b. If he performs such jury duty, witness service, or examination by a jury commission and work on the

same day, he will be paid the difference, if any, between his actual earnings for that day plus the jury pay or witness fee received and eight hours pay at his straight-time hourly rate.

- c. Reimbursement under (iii) above will not be payable if the witness service is related to a matter in behalf of or as a result of his association with another employer or association.

Reimbursement to any employee under this Section 15.3 shall be payable only if the employee gives the Company prior notice of his summons or subpoena for jury duty, jury commission examination or witness service, and presents satisfactory evidence that jury duty, examination by a jury commission or witness service was performed on the day or days for which such reimbursement is claimed, and returns to work promptly on any day on which his jury duty, examination by a jury commission or witness service totals less than four hours and does not prevent him from completing on that day, at least two hours of his regular shift, provided that any employee who serves on a jury and works on the same day will not be required to work more than four hours of his regular shift and further provided, with respect to an eligible employee who is assigned to the third shift, that only in the case of jury duty or witness service performed, the necessity for returning to or reporting for work as set forth above shall not be applicable either to the regular shift preceding, if any, or the regular shift following, if any, the day on which such summons or subpoena ordered him to report and he did report, but such exemption shall not include both days.

Within the Commonwealth of Pennsylvania only, the Magistrate Court shall be deemed to be a "Court of Record".

#### (15.4) Temporary Military Service

Each employee while actively employed in a bargaining unit covered by this Agreement (but not while on layoff) who is absent because of required performance by him of

- a. temporary active duty for training as a Reservist or National Guardsman (not to exceed in any fiscal year - October 1 of one year to October 1 of the year following either 14 consecutive calendar days or 10 regularly scheduled workdays, if training is not performed on consecutive calendar days), or

- b. temporary emergency duty as National Guardsman

will be reimbursed for each day of such absence which he (i) possesses one or more years of seniority in such bargaining unit and (ii) would otherwise been scheduled to work (excluding, however, Saturdays and Sundays or in the case of seven day operations, the sixth and seventh days of his scheduled workweek) up to a maximum of thirty days during any one fiscal year, in accordance with the succeeding provisions of this Section 15.4.

If he is absent for his entire shift because of such duty, he will be paid the difference between his gross military pay (including longevity pay and extra risk bonuses but excluding quarters, subsistence, travel or similar allowances) and his daily straight-time pay for his regular shift. If he performs such duty and works on the same day, he will be paid the difference, if any, between his actual earnings for that day plus the military pay received and his daily straight-time pay.

Reimbursement to an employee under this Section 15.4 shall be payable only if the employee gives the Company prior notice of his call to such duty, and submits to his Supervisor a "Military Pay Statement" form furnished by the Company, fully completed by the employee and his Commanding Officer (or other commissioned officer authorized to approve military pay vouchers) and when released or excused from such duty returns to work promptly.

#### (15.5) Bereavement

When death of an employee's brother, brother of a current spouse, sister, sister of a current spouse, spouse, parent, parent of a current spouse (including stepparent and adoption parent), child, adopted child, stepchild, grandchild, stepfather, stepmother, adoption father, adoption mother, occurs, the employee, on request, will be excused for up to three consecutive nominal scheduled days of work (or for such fewer days as the employee may be absent) during the four days (excluding (a) Saturdays and Sundays or in the case of seven-day operations, the sixth and seventh days of the employee's scheduled work week, and (b) holidays specified in Section 7.8) beginning with the date of death provided he attends the funeral. The employee shall receive eight hours pay for each scheduled day of work for which he is so excused (excluding (a) Saturdays and Sundays or in the case of seven-day operations, the sixth and seventh days of the employee's scheduled work week and (b) holidays specified in Section 7.8), provided he attends the funeral. Payment shall be made at the employee's straight-time hourly rate on the last day worked.



When death of an employee's grandparent, half brother, half sister, stepbrother, stepsister, or current spouse of a child (including adopted child and stepchild) occurs, an employee, on request, will be excused for any normal scheduled hours of work (or for such fewer hours as the employee may be absent) during the day of the funeral provided he attends the funeral. The employee shall receive up to eight hours pay for scheduled hours of work for which he is excused on the day of the funeral provided he attends the funeral. Payment shall be made at the employee's straight-time hourly rate on the last day worked.

In the event a member of the employee's immediate family as above defined dies, the employee may, should the funeral be delayed, have his excused absence from work as above provided delayed to include the date of the funeral.

In the event the body of a member of the employee's immediate family as above defined has been physically destroyed or the body is donated to an accredited North American hospital or medical center for research purposes, the requirement that the employee attend the funeral may be satisfied by attendance at a memorial service.

\* \* \*

[EXCERPTS FROM THE LOCAL AGREEMENT]

\* \* \*

**ARTICLE 2**  
**REPRESENTATION**

(2.1) The Company recognizes and will deal with those representatives of the Union as set forth in this Section 2.1 and Article 4, Section 4.1(D) of the Central Agreement for the purposes of resolving grievances.

A Steward elected from among the employees under the supervision of each Foreman on each shift. Such election may be held on Company property but not on Company time.

The functions and privileges of such representatives shall be:

- a. Plant Committeemen and Stewards will function as set forth in Section 2.2 of this Article 2 with privileges accorded therein.
- b. The Alternate Committeeman (1) shall act as the Chairman of the Grievance Committee in his absence, (2) may act in the place of an absent Plant Committeeman, and (3) if not acting as in (1) or (2) above will assist the Chairman in conducting his business at the Local Union Office. He shall attend Third Step Meetings only when substituting as in (1) or (2) above, Third Step pre-meeting discussion and if designated by the Chairman, Fourth Step Review meetings. Such Alternate Committeeman shall be full time and paid by the Company in the same manner provided for the Chairman in Article 4, Section 4.6, Paragraph 3 of the Central Labor Agreement.

- c. The Chairman of the Grievance Committee shall function in accordance with Section 4.6 of the Central Agreement.

(2.2) In taking Step 1, Stewards may, without loss in pay for regularly scheduled hours, discuss a grievance with the aggrieved employee (provided the aggrieved employee first informs his immediate Supervisor of his desire for such discussion), with the employee's immediate Supervisor and, if the grievance is not satisfactorily settled in Step 1, with the Plant Grievance Committeeman who would handle the grievance in Step 2. In the temporary absence of a Steward, an alternate may be temporarily appointed by the Chairman of the Plant Grievance Committee or his authorized representative.

In taking Step 2, a Plant Grievance Committeeman may discuss the grievance as provided in Step 2 of the grievance procedure without loss in pay for regularly scheduled hours, with the aggrieved employee, with the Steward who handled the grievance in the first step, and with the Superintendent or other Company-designated representative.

In taking Step 3, members of the Plant Grievance Committee may discuss the grievance as provided in Step 3 of the grievance procedure without loss in pay for regularly scheduled hours.

In taking Step 4, members of the Union Review Committee may discuss the grievance as provided in Step 4 of the grievance procedure without loss in pay for regularly scheduled hours.

### **ARTICLE 3 GRIEVANCE PROCEDURE**

(3.1) When grievances arise, an earnest effort will be made to settle them as follows:

STEP 1. The aggrieved employee shall present his grievance either personally or with his Steward directly to his Foreman who shall render a decision within two working days.

STEP 2. If the grievance is not satisfactorily adjusted by the Foreman, a Plant Grievance Committeeman should take the grievance to the Superintendent or other Company-designated representative, who will, as promptly as possible, arrange a meeting for discussion of the grievance. In taking the second step of the grievance procedure, members of the Plant Grievance Committee shall represent employees geographically located in their general areas as defined in Section 4.1, D of the Central Agreement.

STEP 3. If the grievance is not satisfactorily adjusted by the Superintendent or other Company-designated representative within three working days after date of meeting, the Plant Grievance Committee should then present the grievance in writing to the Labor Relations Manager (or his authorized representative) for discussion at their next weekly meeting. Such meetings will be held every Tuesday at 1:30 P.M. provided there are grievances to be considered. Representatives of the Employee Relations Department may also be present at these meetings. The Labor Relations Manager shall forward the grievance to the appropriate department manager (or his authorized representative), who shall render his decision no later than the next regular meeting.



The Plant Grievance Committee shall have an opportunity to assemble in the conference room one and one-half (1.5) hours prior to Step 3 meetings.

To be considered at a Third Step meeting of the grievance procedure, grievances shall be submitted to the Labor Relations Manager (or his authorized representative) no later than 1:30 P.M. the Wednesday prior to that meeting.

The Company shall prepare minutes of each Third Step grievance meeting between Company representatives and the Plant Grievance Committee. Three copies of such minutes shall be promptly supplied the Union. If there is no objection raised at the succeeding meeting between the parties, the minutes shall be initialed by the parties and shall stand of record. Such minutes shall include:

- a. Date of meeting.
- b. Names of those present.
- c. Statement of each grievance taken up and discussed; also a summary of the Union's contention in the event of failure to adjust.
- d. Management's answers to each grievance, along with reasons, if grievance is denied.

**STEP 4.** If the grievance is not satisfactorily adjusted by the Department Manager (or his authorized representative), either party may request that the decision be reviewed. Request for a review meeting must be made within twenty working days after the Company has given the Union minutes of the Third Step meeting. The review meeting shall be held within five working days of the time the request is made for such meeting. The Union may be represented by the International Repre-

sentative, the Local Union President, the Grievance Committee Chairman, and a third member of the Union Review Committee at the option of, and designated by the Chairman. The Company may be represented by not more than four representatives, one of whom shall be the Labor Relations Manager (or his authorized representative). The Company shall render its decision in writing no later than five working days after said meeting.

Representatives of the Union Review Committee specified above shall have an opportunity to assemble in the conference room one-half hour prior to Step 4 review meetings.

(3.2) To be processed under the above grievance procedure, a grievance must be presented within fifteen working days of the time the grievance occurred or within fifteen working days of the time the employee or Union first became aware of the grievance.

(3.3) Any grievance not appealed from a decision in Steps 1 and 2 within ten working days of such decision shall be considered settled on the basis of the last decision and not subject to further appeal.

LETTER FROM CATERPILLAR  
TO UAW  
[Oct. 30, 1992]

[Caterpillar Letterhead]

October 30, 1992

Mr. Elliott Anderson  
Administrative Assistant  
Agricultural Implement Department  
United Auto Workers  
8000 East Jefferson Avenue  
Detroit, Michigan 48214

Dear Andy:

Since the UAW unilaterally terminated the Central Agreement and Local Supplements on November 4, 1991, the Company has been under no obligation to continue to compensate or provide coverage (at no cost) under the Group Insurance Plan for the various chairmen of grievance committee or full-time grievance committeemen who are treated as though they were on either a full-time or part-time leave of absence from the Company under Article 4 of the terminated Agreement.

Despite the lack of any legal obligation to subsidize the UAW, Caterpillar has continued to do so on a voluntary basis in the hope that such forbearance would be conducive to good faith negotiations. However, to date no agreement has been reached. Instead, the UAW and its representatives have wasted time and energy in a campaign to ostracize and harass our employees who chose to exercise their statutory rights to return to work. In addition, many of these leaders have repeatedly, but unsuccessfully, tried to influence customers not to buy

our products. They have attempted to reduce the productivity and efficiency of Caterpillar's manufacturing operations. They've questioned Caterpillar's reputation for quality products—an action that could risk the livelihood of all Caterpillar employees.

We estimate that full-time Union committeemen and chairmen reap a windfall of over \$1.8 million per year in wages and benefits from Caterpillar (including an automatic six hours of "overtime" pay each week). Although the UAW's efforts to harm Caterpillar and our workers have proven unsuccessful, we see no reason to continue to subsidize such unprotected conduct. Indeed, one may even question the legality of such payments. Therefore, effective November 16, 1992, and continuing until a new agreement is reached Caterpillar no longer intends to subsidize the UAW by paying wages to or by providing coverage at no cost under the Group Insurance Plan for the Union's various chairmen of grievance committees, full-time grievance committeemen or their replacements in the absence of a labor agreement between the parties legally providing for such payments and coverage. Instead, such compensation and benefits will be the responsibility of the UAW.

Obviously, this letter does not apply to those UAW representatives who continue to administer the grievance procedure under the current CLS Agreement. Moreover, stewards and part-time committeemen employed by the Company who are responsible for processing grievances for our employees on an as-needed basis during the workday, will continue to be paid by the Company without any docking of pay for time properly spent in grievance administration.



UAW representatives who are covered by this letter are listed on the attached list. We will, of course, continue to recognize these individuals as UAW representatives with rights and privileges as detailed in Sections 4.6, 4.7, and 4.8 of the Central Agreement and in the appropriate sections of the various Local Agreements.

If you have any questions or wish to discuss this matter further, please contact the undersigned.

Sincerely,

/s/ J.L. Brust

Director

Corporate Labor Relations

[Attachment to Letter]

<u>Name</u>	<u>SSN</u>	<u>Badge</u>	<u>Location</u>
Ted E. Johnson	310-38-2490	44268	Hauling Units & Motor Graders (Decatur)
Terry L. Orndorff	173-32-7110	42449	Precision Barstock Products (York)
Edward H. Benedict	185-34-8258	42232	" " "
William E. Jones	289-34-9875	46961	Engine Systems (Pontiac)
Albert J. Weygand	329-40-3463	1080	Wheel Loaders & Excavators (Aurora)
Lorin J. Lippert	322-38-5524	36872	Technical Services Division (Technical Center)
Ricky L. DeGroot	333-48-0684	5985	" " " "
Otha Boyd	428-92-2401	52211	Chemical Products (Mossville)

<u>Name</u>	<u>SSN</u>	<u>Badge</u>	<u>Location</u>
Suell I. Noye	339-44-5698	56116	Medium & Small Engine Products (Mossville)
Jerry L. Oliver	342-36-6575	53334	" " " " "
Richard G. Bennett	322-38-5870	53375	" " " " "
John P. Bridgewater	325-46-5585	12332	" " " " "
Michael P. McIntyre	342-36-5671	58676	" " " " "
Kevin P. Hollaway	346-46-5064	4516	" " " " "
Don A. Brown	352-34-8978	53315	Foundry (Mapleton)
Semaan A. Trad	325-50-5873	58646	" "

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John W. Harris	322-38-8311	52784	Track Type Tractor (East Peoria)
Gerald D. Smith	357-36-9042	36129	" " " " "
Harry R. McEuen	345-32-6283	52225	" " " " "
Harold R. Snider	333-40-7111	11040	" " " " "
David C. Johnston	357-40-4633	33603	" " " " "
James D. Glover	359-34-9779	32115	" " " " "
Tommie R. Dabbs	337-36-2920	51868	" " " " "

<u>Name</u>	<u>SSN</u>	<u>Badge</u>	<u>Location</u>
Mark F. McNamara	321-48-5681	14777	" " " " "
John W. Bainbridge	319-44-9978	17494	" " " " "
Danny R. Miller	321-48-7116	8417	" " " " "
James T. Clingan	318-42-1648	17469	Transmissions (East Peoria)
Emery G. Tabor	333-40-7296	57998	" " " "
Ronald J. Logue	327-36-7002	51593	Services Unit (Peoria Area)
*Joseph T. Vasquez	522-56-3022	28304	Parts & Service Support (Denver)

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\*Only discontinuation of eight-hours pay per week for conducting Union business during regularly scheduled hours; does not affect status under Group Insurance Plan.



## AFFIDAVIT OF TERRY ORNDORFF

[May 3, 1993]

Terry Orndorff, being first duly sworn on oath, deposes and states:

1. That he has been employed by Caterpillar Inc. in York Pennsylvania since April 1969, most recently in the drill specialist classification. That since May 1990, he has been Chairman of the Grievance Committee for Local Union 786, and, as such, has personal knowledge of the facts set forth herein.

2. That Article IV and Secs. 14.6-14.10 of the most recent Central collective bargaining Agreement between Caterpillar Inc. and the UAW is attached hereto as Exhibit I (hereafter "Central Agreement"). That Article IV sets forth the provisions for Union Representation in conjunction with the processing and settlement of grievances, including but not limited to provisions regarding the Chairman of the Grievance Committee and the Alternate Committeeman. That Secs. 14.6-14.10 contain provisions on unpaid leaves of absence for military duty, Peace Corps service, certain government offices and union office (not including Chairman of the Grievance Committee, which is covered by Sec. 4.6).

3. That, the duties of the Chairman are set forth in Sec. 4.6 of the Central Agreement (Exh. I) and relate primarily to grievance matters at Caterpillar York.

4. That under the terms of Sec. 4.6 of the Central Agreement, the Chairman is nominally considered to be on "leave of absence" from Caterpillar; however, this is not an unpaid leave of absence and he is to be paid by Caterpillar (at the drill specialist's rate) for the regular

shift hours of Caterpillar employees in his jurisdiction, except as specifically provided in Sec. 4.6.

5. That under Sec. 4.6, the Chairman is not to be paid by the Company for time spent in (i) negotiations, (ii) vacation, (iii) attendance at meetings and/or conventions not held in the Local Union office, or (iv) any activity not directly related to the functions of his office as Chairman of the Grievance Committee.

6. That until Caterpillar unilaterally discontinued paying the Chairman in November 1992, the Chairman's regular practice at the York Caterpillar facility was to complete a time card (an example of which is attached hereto as Exh. II) and turn it into the Caterpillar Labor Relations Office each week. The card was then reviewed by Harold Booze (Caterpillar Human Resource Manager), and/or Larry Staker (Caterpillar Labor Relations Manager), who signed off on the card so it could be processed for payment by the Caterpillar payroll office. The time card shows the number of hours worked each day of the week on activities for which Caterpillar is obligated to pay under Sec. 4.6 of the Central Agreement, as well as a designation of the time spent, if any, on such things as vacation, personal days off, and activities for which Caterpillar is not obligated to pay pursuant to Sec. 4.6 of the Central Agreement.

7. That, pursuant to regular practice at the York Caterpillar facility, whenever the Chairman was involved in activities for which Caterpillar was not obliged to pay pursuant to Sec. 4.6 of the Central Agreement, the Union would complete and send to Caterpillar a "call out" form, a copy of which is attached as Exh. III. This form would inform Caterpillar that it should not pay the Chairperson for the hours indicated on the call-out form.

8. That he has reviewed Plaintiff's First Request (to Local 786) for Production of Documents, as well as the document requests made in conjunction with Plaintiff's Notice of Depositions of Local 786 officials. That, if all the requested documents were to be produced, it is estimated that thousands and thousands of pieces of paper would be produced and thousands more would have to be reviewed in order to weed out the unresponsive ones. Because these documents are in files all over the Union office, many of which are not ordinarily kept in the course of business in a manner corresponding to the categories in which plaintiff seeks discovery, a large portion of the Union's files would have to be reviewed in order to find responsive documents.

Further, affiant sayeth not.

[Jurat Omitted in Printing]

[Exhibits Omitted by Designation]

# DECLARATION OF PAT GREATHOUSE

[October 13, 1995]

[Caption Omitted in Printing]

I, **Duane Patrick "Pat" Greathouse**, state my declaration as follows:

1. I live at 44450 Harmony Lane, Belleville, Michigan 48111. I make this declaration of my own personal knowledge and I am competent to testify to the matters stated herein.

2. I am a charter member of UAW Local 551, which represents workers in the Ford Assembly Plant in Chicago, Illinois. I became a UAW member in 1941.

3. I was elected by the UAW membership as a full time committeeman under the first contract between the UAW and Ford, dated June 20, 1941. As far as I am aware, the provision in the 1941 Ford-UAW collective bargaining agreement for a full-time committeeman was the first time the UAW negotiated a provision for a full-time committeeman in any of its collective bargaining agreements with employers. In that position, I was no longer assigned duties on the plant floor; instead, I worked full-time on duties relating to administration of the grievance procedure.

4. In February 1943, I became employed as an International Representative of the UAW, assigned to UAW Region 4.

5. In 1947, I was elected to the UAW's International Executive Board as Director of UAW Region 4 (which covered northern Illinois, Iowa, Wisconsin, Minnesota, North and South Dakota, Wyoming and Montana).



6. In January 1956, I was elected to be a Vice President of the UAW and was assigned by UAW President Walter Reuther to be Director of the UAW's Agricultural Implement Department ("Ag-Imp" Department).

7. I headed negotiations for the UAW in the Ag-Imp Department until my retirement from the UAW in June 1980. The Ag-Imp Department negotiates with UAW-represented companies which manufacture farm implements, earth-moving equipment, trucks and other heavy equipment. This includes employers such as Caterpillar, John Deere, International Harvester (now Navistar), and J. I. Case.

8. The first negotiated agreement between the UAW and Caterpillar providing for a full-time Chairman of the Grievance Committee to be paid by Caterpillar was the agreement effective in November 1973. (Exh. A). This followed a similar provision which had been negotiated by the UAW with Deere and Company. (A copy of the Deere/UAW Agreement effective February 1971 is attached as Exh. B).

9. Prior to these parties negotiating the "full-time" Grievance Chairman position, the collective bargaining agreements contained provisions specifically authorizing union representatives such as stewards, chief stewards, committeemen, etc. to leave their plant floor jobs—without loss of pay—to handle grievance-related matters. Prior to 1973, most of the details of this type of representation at Caterpillar were set forth in local supplements to the Central UAW/Caterpillar agreement. (See for example, the 1970-1973 Caterpillar of York/UAW Local 786 Agreement, Article 2, attached as Exh. C and the representation provisions of the 1970-1973 Supplement for Local 974 covering the Caterpillar Plants at Morton,

Mapleton, Mossville and East Peoria, Illinois, attached as Exh. D).

10. In most of the UAW/Caterpillar agreements (as in the UAW's agreements with many large employers), the parties provide for a hierarchy of sorts for grievance handling—stewards handle the first steps of a grievance, committeemen handle higher steps while the Chairman of the Grievance Committee, the highest locally based representative, handles yet higher steps.

11. Although the procedures vary from plant to plant, basically what happens when a worker wants to see his or her union representative or when there is a scheduled grievance meeting is that the union representative's foreman is notified of the need to have the representative leave his job. Depending on what type of plant job the union representative has, a relief person may have to be arranged to fill in while the union representative is functioning in his representative capacity. Thus, for example, if the union representative's regular job is on an assembly line or on a continuous machinery line or is on a heavily burdened singular machine, the worker can not leave without being relieved. Depending on whether the worker with the problem works in the same or different area as the union representative, the representative may have to get a pass and special permission to enter the worker's area. When the union representative is finished with his work, he will generally return to his regular plant job—after notifying the appropriate people. If the union representative has been relieved during his absence, the reliefman will go elsewhere.

12. In the large plants (like those at Caterpillar), as the work and the collective bargaining agreements became ever more complicated, the Chairman of the Griev-

ance Committee was often very busy with grievance handling work and often had to leave his regular plant job to do that work. In practice, Grievance Chairmen often were spending full time doing their grievance-related work with little or no time left for their regular plant jobs.

13. In 1973, Caterpillar and the UAW agreed that Caterpillar would pay the Chairman of the Grievance Committee "full time" for doing the work outlined under Section 4.6 of the Agreement (Exhibit A).

14. As I recall the negotiations at both Deere and Caterpillar which led to the creation of the Grievance Chairman position on a "full time" basis, the parties agreed that it was less disruptive to production to establish the Grievance Chairman position on a full-time basis than to continue to have the Chairmen, in order to handle grievances and other similar matters, repeatedly pulled off and on the job.

15. It was the Company's idea to have the Chairman based at the Local Union office. The UAW preferred that the full-time Grievance Chairman be based in the plant, as the full-time Chairmen are in the automobile plants represented by the UAW. Caterpillar, however, thought it less disruptive to production if the Chairman worked out of the Local Union office, and that is what the parties agreed to in Article 4.6. Among other things I recall Caterpillar bringing up at the time is that it would be less disruptive to structure things so the workers would go to the Local Union Hall to see the Grievance Chairman—usually before or after the workers' regular shifts, than to have the workers meeting with the Chairman at the plant.

16. At Caterpillar, when we first negotiated the full-time Chairman provision in 1973, we agreed that any such full-time Chairman would be paid by Caterpillar for regular shift hours during the regular workweek (excluding Saturdays, Sundays, and Holidays). This had the effect of canceling the Chairman's right to get overtime. So, the parties negotiated a provision that Caterpillar would, under the circumstances outlined in the collective bargaining agreement, pay the full-time chairman an additional six (6) hours of pay in a workweek at straight time rates. This was equivalent to four (4) hours of overtime at time and one-half pay, the regular overtime rate.

17. Over the years, I have heard numerous times from full-time Chairman that if they were working on the plant floor they would have had opportunity for more than four (4) hours of weekly overtime pay. Committeemen who are in the plant and paid by Caterpillar on a "part time" basis for their committeemen work share in both daily and the weekend overtime. Many Committeemen, therefore, earn more than the full-time plant Chairman even with his additional six (6) hours' pay.

18. When we negotiated the full time Chairman provision in 1973, we included the language the "The Chairman of the Grievance Committee shall . . . be considered to be on a leave of absence . . ." This language, like most of the language in Article 4.6 on the "full time" Chairman, has not been changed since 1973. Basically, the purpose of this language was to recognize that while in the full-time Chairman position, an employee would not be assigned to his regular plant job—in effect, he would be considered to be on a leave of absence from that regular plant job. He was not, however, in any sense on "leave of absence" from Caterpillar.



19. Another reason we agreed to use the words "considered to be on a leave of absence" was that if the employee in the full-time Chairman position remained assigned to his regular plant job, he would automatically be eligible for any overtime work and pay that existed for his job classification; this, however, would have been inconsistent with the parties' agreement that employees in the full-time Chairman position were not to be eligible for plant overtime. By "considering" him "to be on a leave of absence," he was taken off of the overtime eligibility list.

20. With regard to various benefit plans applicable to bargaining unit employees in 1973, we provided in Art. 4.6 that the "Chairman would have the same coverage as though he was actively at work." This language was to assure that the Chairman received the same benefits he would receive if assigned to his regular plant job.

21. The duties of the Chairman of the Grievance Committee include dealing with employee problems as they pertain to relationships with the Company, investigating grievances, and seeing that grievances are properly handled, expedited and resolved as soon as possible. The Chairman's job is to make sure the contract works; he is like a contract administrator. In this, he works together with Company labor relations officials and helps coordinate or in effect administer the Agreement. If the Agreement works, everyone benefits—the workers, the Company and its production needs, and the Union.

[Jurat Omitted in Printing]

[Exhibits Omitted by Designation]

# AFFIDAVIT OF GERALD LAZAROWITZ

[October 17, 1995]

[Caption Omitted in Printing]

Being first duly sworn, Gerald Lazarowitz, says and deposes as follows:

1. My name is Gerald Lazarowitz. My office address is 8000 East Jefferson Ave., Detroit, Michigan 48214-2699. I make this affidavit based on business records under my control.

2. Since 1991, I have been the Director of the Research Department of the International Union, UAW. In that capacity, I supervise our historical collection of labor agreements, covering various UAW-represented bargaining units. This is the same collection made available for inspection by attorneys from Caterpillar on October 2, 1995.

3. In the automobile, agricultural implement, and related industries, the better UAW-bargained labor agreements have, for some time, contained language providing for full-time, employer-paid UAW representatives.

4. For instance, such language is contained in the contracts with Ford, General Motors, Chrysler, Deere & Co., and J.I. Case. In Ford and General Motors, the provision dates to 1941. In Chrysler, it dates to the 1943-45 contract. In J.I. Case, an agricultural implement employer, it dates to 1977.

5. Attached hereto, and incorporated by this reference as the Exhibit indicated below, are the relevant provisions from those labor agreements, both past and present:

- Exhibit #1 Ford-UAW, 1941-42
- Exhibit #2 Ford-UAW, 1993-96
- Exhibit #3 GM-UAW, 1941
- Exhibit #4 GM-UAW, 1993-96
- Exhibit #5 Chrysler-UAW, 1943-45
- Exhibit #6 Chrysler-UAW, 1993-96
- Exhibit #7 J.I. Case-UAW, 1977-80 (Local 180)
- Exhibit #8 J.I. Case-UAW, 1980-83 (Local 180)
- Exhibit #9 J.I. Case-UAW, 1995-98 (Local 180)
- Exhibit #10 Deere & Co.-UAW, 1995-97

Further affiant sayeth not.

[Jurat Omitted in Printing]

[Exhibits Omitted by Designation]

## SECOND AFFIDAVIT OF TERRY LEE ORNDORFF

[October 18, 1995]

[Caption Omitted in Printing]

**Terry Lee Orndorff**, being first duly sworn on oath, deposes and states:

This is the second Affidavit I have made in this case. I am the Chairman of the Grievance Committee for UAW Local Union 786 and, as such, have, personal knowledge of the facts set forth herein.

1. I have reviewed my pay stubs from the weekly paychecks I received from Caterpillar between the pay period ending May 13, 1990 (immediately before I became Chairman of the Grievance Committee on May 20, 1990) and the pay period ending November 15, 1992. A sample of the pay stubs is attached to this Affidavit as follows:

- Exh. A-1: Pay period Ending 5-13-90
- A-2: Pay period ending 5-27-90
- A-3: Pay period ending 4-21-91
- A-4: Pay period ending 6-02-91
- A-5: Pay period ending 10-06-91
- A-6: Pay period ending 12-08-91  
reflecting payment of vacation  
pay and vacation bonus,  
pursuant to Articles 9 and 10  
of the 1988 Central Agreement
- A-7: Pay period ending 12-15-91

2. From my review of my pay stubs from Caterpillar, I note that in each pay period between those dates in which I received the additional six (6) hours of straight time pay provided for in Section 4.6 of the Central Agreement between those dates the extra 6 hours showed up on my pay stub as follows: four (4) hours was added to the number of hours of regular pay which I actually reported to Caterpillar for the week; and two (2) hours was recorded on a line titled "overtime p", but actually paid at my straight time rate. The extra six (6) hours was recorded this way regardless of whether I reported forty (40) hours to Caterpillar for the week or fewer hours. Compare for example, Exhs. A-7 with A-5.

3. In order to prepare to handle my grievance handling responsibilities as effectively as possible, I have developed a listing of grievances which have been processed to the Step 3 of the Grievance Procedure under the Central Agreement and the York Supplement, Article 3. This list includes the grievance number, the name of the grievant(s), the date grievance was filed, the committeeman's name and a short statement of what the grievance is about. I maintain the list both to assist me in my investigating and presenting Step 3 grievances, and also



to help me advise and counsel the stewards and committeemen as they handle their grievance responsibilities at Step 1 and 2 of the grievance procedure. Some of the grievances are relatively uncomplicated and some are very complicated and take a great deal of effort and time to handle. According to my lists, the following number of grievance cases were processed to Step 3 of the Grievance procedure in York during each year indicated:

1987—63  
 1988—52  
 1989—61  
 1990—90  
 1991—79  
 1992—140

Although grievances have been filed since 1992, I have not included them in this Affidavit.

4. Pursuant to Section 11.5 of the 1988 Central Agreement, Caterpillar is to send the local union a Union Seniority List on a quarterly basis. Excerpts from the Quarterly Union Seniority list dated July 28, 1992 are attached as Exhibit B. On this list, Status Code "1" designates "active", Code 2 is "temporary," Code 6 is "medical leave", Code 12 is "Workers Comp", Code 13 is "Long-Term Disability," and Code 14 is "Layoff." On July 28, 1992, I was Chairman of the Grievance Committee and appear on this list in Status Code "1" "active." Edward Benedict who was Alternate Committeeman at the time also appears on this list in "active" status (Code 1).

**Further, affiant sayeth not.**

[Jurat Omitted in Printing]

[Exhibits Omitted by Designation]

# DECLARATION OF TERRY LEE ORNDORFF

[November 1, 1995]

[Caption Omitted in Printing]

I, Terry Lee Orndorff, state my declaration as follows:

1. I live at RD 3, Box 406E, Hanover, Pennsylvania. I make this declaration of my own personal knowledge and I am competent to testify to the matters stated herein.

2. Among the documents produced to plaintiff Caterpillar in this matter in September 1995 were copies of certain "call-out" slips still in the possession of Local Union 786. The "call out" slips are the slips that the Local 786 president would use to notify Caterpillar that a Caterpillar employee needed to be "called out" for union business (under Art. 14.10, 3rd para. of the 1988 Central Agreement). Caterpillar did not and does not pay employees for time during which they were out of the Plant on "call out". The "call out" system was also used at York for convenience to "call out" the Chairman of the Grievance Committee and the Alternate Committeeman. Copies of most of the "call out" slips for the past several years have been kept in the Local 786 office. During the period Jay Roberts was President (until March 1993), he often—but not always—would make a contemporaneous handwritten note on the Union's copy of the "call out" slip indicating the nature of the Union business that necessitated the "call out". Two examples of "call out" slips with handwritten notes are attached as Exhibit C to this Third Affidavit.

3. I have reviewed the "call-out" slips and the handwritten reasons for the "call outs" between May 20, 1990 when I became Chairman of the Grievance Committee ("Chairman") through November 15, 1992, the last day Caterpillar paid the Chairman and the Alternate Committeeman under Sec. 4.6. Based on these documents, I have prepared and attached as Exhibit D, a list of the dates and hours I was "called out" during this period, along with the reason which appears (in handwriting) on the "call out" slip. If the "call out" slip does not contain a handwritten explanation for the "call out", I have left blank the column labeled "reason." Because the Local union may not have a copy of every single "call out" slip for the period, the list of "call out" times and hours may not be 100% accurate; but I am comfortable it gives a very close approximation of the times I was "called out" from Caterpillar during this period.

4. An explanation of some of the terms on Exhibit D, under the column labelled "Reason" follows:

"Ag Imp" - means attendance at meeting of the UAW locals which represent employers in the UAW Agricultural Implement ("Ag Imp") Department (e.g., Caterpillar, J.I. Case, John Deere, etc.).

"Cat Council" - means attendance at meetings of the UAW locals which represent employees within the Caterpillar chain.

"Central Committee Meeting" - means meeting of the members of UAW's Central Bargaining Team for bargaining with Caterpillar.

"HRC" means Pennsylvania Human Relations Commission.

"U/E" means Unemployment insurance hearing.

"W.C." means Workers compensation hearing.

5. I have a copy of the payroll stubs which I received from Caterpillar with each regular paycheck between May 27, 1990 and November 15, 1992. Examples of these payroll stubs were attached as Exhs. A-1 through A-7 to the Second Affidavit of Terry Lee Orndorff filed in this matter. From the payroll stubs, I have prepared a list of the number of hours of pay I received from Caterpillar each pay period during this period. This list is attached as Exhibit E. I have noted under the Column labelled "Comments" each instance when the payroll stub reflected pay other than Regular pay and Overtime pay.

6. The meaning of the various types of pay listed under the "Comments" column is as follows:

"Absence Pay" means the pay for Paid Absence Allowance under Sec. 15.1 of the 1988 Central Agreement. This is an allowance available to certain employees "while actively employed in a bargaining unit" providing pay for up to 50 hours per year of absences for reasons set forth in Sec. 15.1-D of the 1988 Central Agreement. The reasons include such things as absence due to accident, illness, extreme weather conditions, etc. The use of Paid Absence Allowance under Sec. 15.1-D is not available for "any period of absence on Union business".

"Attendance Bonus Hours" means pay for the hours earned under Sec. 15.6 of the 1988 Central Agreement for which employees "actively employed in the bargaining unit" are eligible if they meet the conditions set forth in Sec. 15.6. Pay for Attendance Bonus Hours, if any, occurs, pursuant to Sec. 15.6-C "imme-



diately before the second vacation period each year." Thus, the Attendance Bonus payment usually occurs in early December; it is reflected in Exhibit E on my pay stubs for December 9, 1990 and December 8, 1991.

[Jurat Omitted in Printing]

[Exhibits other than Exhibits D and E Omitted by Designation]

[Exhibit D]

# **CALL-OUTS - TERRY ORNDORFF**

Date	Hours	Reason
<u>1990</u>		
5/14	7:24 - 3:24	Transition
5/17 - 5/18	7:24 - 3:24	Hall
5/30 - 6/1	7:24 - 3:24	Ag. Imp.
6/7 - 6/8	7:00 - 3:00	Civil Rights
6/19 - 6/22	7:00 - 3:00	Cat. Council
7/30, 7/31, 8/1-8/3	7:00 - 3:00	Summer School
8/7	7:24 - 3:24	Peoria Outsourcing
8/13 - 8/16	7:00 - 3:00	Skill Trades Conference
9/18 - 9/21	7:00 - 3:00	Cat. Council
10/30 - 10/31	7:00 - 3:00	Ag. Imp.
11/1 - 11/2	7:00 - 3:00	Ag. Imp.
<u>1991</u>		
2/18 - 2/22	7:00 - 3:00	Leadership Conference
3/18 - 3/22	7:24 - 3:24	Ag. Imp. & Cat. Council
5/8	7:24 - 9:24	HRC Rose Showers
5/28 - 5/31	7:24 - 3:24	Cat. Council
6/10 - 6/14	Entire Shift	
6/26 - 6/27	7:00 - 3:00	Ag. Council & Committee Mtg.
7/11	7:24 - Until	Organizing
7/30 - 8/1	7:00 - 3:00	Central Negotiations
8/5	8:00 - Until	Local Negotiations
8/12	7:24 - Until	Local Negotiations
8/19	7:24 - Until	Local Bargaining
9/4 - 9/5	7:00 - 3:00	Detroit Meeting
9/6	7:24 - Until	
9/19	9:00 - Until	Local Negotiations
9/23 - 9/24	7:00 - 3:00	Detroit Meeting
9/27, 9/30	7:24 - 3:24	Central Negotiations
10/1 - 10/3	7:00 - 3:00	Central Talks
10/4	1:00 - 3:00	Fells U/E

Date	Hours	Reason
10/7 - 10/11	7:00 - 3:00	Central Talks
10/14 - 10/18	Entire Shift	
10/21 - 10/25	7:00 - 3:00	Central Talks
10/28 - 11/01	Entire Shift	
11/13	12:24 - 3:24	John Birley W.C. Hearing
12/19 - 12/20	7:00 - until	Central Committee Meeting
<u>1992</u>		
1/8	7:00 - 3:00	Rally Hanover (Spector)
1/27 - 1/29	7:00 - 3:00	Central Rallies
2/10 - 2/11	7:00 - 3:00	Central Committee Meeting
2/18 - 2/21	7:00 - 3:00	Central Bargaining
3/10 - 3/12	7:00 - 3:00	Central Committee Meeting
3/16 - 3/18	7:00 - 3:00	Negotiation
3/23	7:00 - 3:00	
3/24 - 3/27	7:00 - 3:00	Central Bargaining
4/7	7:00 - 3:00	Stock Holders Meeting
		Central Committee Meeting
4/8	7:00 - 3:00	Central Committee Meeting
4/13, 14, 15	7:00 - 3:00	Central Negotiations
4/20	2:00 - 3:00	Brown Visit
5/1	7:24 - 3:24	Central Committee Meeting
5/14	7:24 - 3:24	Central Bargaining Comm. Mtg.
5/15	7:24 - Until	Central Bargaining Comm. Mtg.
5/20 - 5/22	Full Shift	Central Committee Meeting
6/1 - 6/3	7:24 - 3:24	
6/15 - 6/19	7:00 - 3:00	Convention
8/10	8:00 - Until	Cass Meeting
9/30 - 10/2	7:24 - 3:24	Central Committee Meeting
10/9	10:00 - 12:00	
11/4	1:30 - 3:30	Parking Lot Rally

## [Exhibit E]

## Summary of Information on Terry Orndorff's Pay Stubs From Caterpillar

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
May 27, 1990	46*/	
June 3, 1990	8	Holiday Pay; No 6 hrs.
June 10, 1990	30*/	
June 17, 1990	46*/	
June 24, 1990	14*/	
July 1, 1990	46*/	
July 8, 1990	46*/	8 hrs. Holiday Pay
July 15, 1990	46*/	
Vacation Period	No Pay	
August 5, 1990	0	Summer School; No 6 hrs.
August 12, 1990	38*/	
August 19, 1990	14*/	
August 26, 1990	46*/	
September 2, 1990	46*/	

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.



<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
September 9, 1990	46*/	8 hrs. Holiday Pay
September 16, 1990	46*/	
September 23, 1990	14*/	
September 30, 1990	46*/	
October 7, 1990	46*/	8 hrs. Absence Pay
October 14, 1990	46*/	
October 21, 1990	46*/	
October 28, 1990	46*/	
November 4, 1990	14*/	
November 11, 1990	46*/	
November 18, 1990	46*/	
November 25, 1990	46*/	16 hrs. Holiday Pay
December 2, 1990	46*/	
December 9, 1990	108*/	42 hrs. Att. Bonus
		20 hrs. Absence Pay

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
December 16, 1990	46*/	
December 23, 1990	46*/	
December 30, 1990	16	Holiday Pay; No 6 hrs.
January 6, 1991	46*/	16 hrs. Holiday Pay
January 13, 1991	46*/	2 hrs. Absence Pay
January 20, 1991	46*/	
January 27, 1991	46*/	8 hrs. Holiday Pay
February 3, 1991	46*/	
February 10, 1991	46*/	4 hrs. Absence Pay
February 17, 1991	46*/	
February 24, 1991	0	
March 3, 1991	46*/	
March 10, 1991	46*/	
March 17, 1991	46*/	
March 24, 1991	0	

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
March 31, 1991	46*/	8 hrs. Holiday Pay
April 7, 1991	46*/	
April 14, 1991	46*/	
April 21, 1991	46*/	16 hrs. Absence Pay
April 28, 1991	46*/	
May 5, 1991	46*/	
May 12, 1991	44*/	
May 19, 1991	46*/	
May 26, 1991	46*/	
June 2, 1991	8	Holiday Pay; No 6 hrs.
June 9, 1991	46*/	
June 16, 1991	0	
June 23, 1991	46*/	
June 30, 1991	30*/	
July 7, 1991	46*/	16 hrs. Holiday Pay
July 14, 1991	30*/	

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
Vacation Period	No Pay	
August 4, 1991	22*/	
August 11, 1991	42*/	
August 18, 1991	43.5*/	
August 25, 1991	38*/	
September 1, 1991	44*/	
September 8, 1991	22*/	8 hrs. Holiday Pay
September 15, 1991	46*/	
September 22, 1991	43*/	
September 29, 1991	22*/	
October 6, 1991	20*/	
October 13, 1991	0	
October 20, 1991	14*/	
October 27, 1991	0	
November 3, 1991	0	
November 10, 1991	38*/	
November 17, 1991	43*/	

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.



<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
November 24, 1991	46*/	
December 1, 1991	46*/	16 hrs. Holiday Pay
December 8, 1991	110*/	44 Att. Bonus  20 hrs. Absence Pay
December 15, 1991	46*/	
December 22, 1991	35*/	
December 29, 1991	30*/	16 hrs. Holiday Pay
January 5, 1992	38*/	16 hrs. Holiday Pay
January 12, 1992	38*/	
January 19, 1992	46*/	
January 26, 1992	44.5*/	8 hrs. Holiday Pay
February 2, 1992	22*/	
February 9, 1992	46*/	
February 16, 1992	30*/	
February 23, 1992	25*/	

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\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
March 1, 1992	46*/	
March 8, 1992	46*/	
March 15, 1992	14*/	
March 22, 1992	22*/	
March 29, 1992	0	
April 5, 1992	46*/	
April 12, 1992	30*/	
April 19, 1992	22*/	8 hrs. Holiday Pay
April 26, 1992	44.5*/	8 hrs. Absence Pay
May 3, 1992	38*/	
May 10, 1992	46*/	
May 17, 1992	35*/	
May 24, 1992	22*/	
May 31, 1992	46*/	8 hrs. Absence Pay 8 hrs. Holiday Pay
June 6, 1992	22*/	

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\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
June 14, 1992	46*/	
June 21, 1992	0	
June 28, 1992	46*/	
July 5, 1992	56*/	8 hrs. Holiday Pay (includes 4 hrs. of overtime pay)
July 12, 1992	46*/	
Vacation Period	No Pay	
August 2, 1992	46*/	
August 9, 1992	46*/	
August 16, 1992	46*/	
August 23, 1992	46*/	
August 30, 1992	46*/	
September 6, 1992	46*/	
September 13, 1992	46*/	6 hrs. Absence Pay 8 hrs. Holiday Pay

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.

<u>Pay Period Ending</u>	<u>Number of Hours Paid By Caterpillar</u>	<u>Comments</u>
September 20, 1992	41*/	3 hrs. Absence Pay
September 27, 1992	46*/	
October 4, 1992	22*/	
October 11, 1992	46*/	
October 18, 1992	46*/	8 hrs. Absence Pay
October 25, 1992	46*/	
November 1, 1992	46*/	
November 8, 1992	44*/	
November 15, 1992	46*/	

[Other Exhibits Omitted by Designation]

\*/ Includes 6 additional hours pursuant to Sec. 4.6 of 1988 Central Agreement, recorded on pay stub as 4 hours of regular pay and 2 hours of overtime pay.



EXCERPTS FROM  
THE DEPOSITION OF TERRY ORNDORFF

[September 20, 1995]

\* \* \*

[8]

Q. Thank you very much, sir. Mr. Orndorff, you are a member of UAW Local 786?

A. Yes, sir.

Q. And that is one of the Defendants in [9] this lawsuit; is that correct?

A. Yes.

Q. How long have you been a member of Local 786?

A. Since April 25th, 1969, twenty-six (26) years plus.

Q. And are you a member in good standing in Local 786?

A. Yes.

Q. Have you held any positions in Local 786?

A. Positions?

Q. Yes, union offices.

A. Offices. I was a committeeman for nine years prior to becoming chairman and this is my second term. I have five years in as chair.

Q. When did you first become—. Prior to committeeman, did you hold any positions in Local 786?

A. No.

Q. When did you first become a committeeman?

A. I believe that was 1981, would've been June.

Q. And what were your duties and [10] responsibilities as a committeeman?

A. I had responsibilities for areas of the shop defined by the contract to represent the people and enforce the contract.

Q. And what areas of the shop did you have responsibilities for?

A. I had the B-building area, maintenance and materials positions. E-building, the heat plant which turned into co-generation and some facets of C-building, the maintenance area in C-building.

Q. And did you hold any—were you working for Caterpillar while you were a committeeman?

A. I was—as an as-needed—considered as-needed or as-necessary committeeman, which was basically necessity to work 40-hours trying to resolve problems or avoid problems.

Q. So you worked—while you were a committeeman, you spent your 40-hours doing committeeman work?

A. And that wasn't enough, yes.

\* \* \*

[18]

Q. Are there any non-York Caterpillar employees who are members of Local 786?

A. Non-York—what?

Q. Non York, non Caterpillar employees who are members of Local 786?

A. All the members of Local 786 are Caterpillar employees at the York facility.

\* \* \*

[23]

Q. Now, do chairman of the grievance and bargaining committee is a full-time position; is that correct?

A. I am under 4.6 of the Central Agreement that says I am considered full-time.

Q. Let me ask you this question. Prior to November 16th, 1992, was the chairman of the grievance and bargaining committee a full-time [24] position?

A. I worked on the job 50 to 60 hours a week without any trouble.

\* \* \*

[28]

Q. Okay. What does then—what do you do as the chairman of the grievance and bargaining committee as of November 15th, 1992?

A. Try to interpret and enforce the contract on behalf of the members of Local 786.

Q. Anything else?

A. I don't understand what you mean.

Q. Did you do anything else in carrying out your duties?

A. A lot of things that were not spelled out there as far as joint things between the Company and union that, again, were in the best interest of the members of Local 786.

Q. Okay. What joint things did you—?

A. We were involved in ESP, the Continued Learning Improvement Process which was something that was going pretty strong, the joint training. We were trying to get some programs set up in . . . .

\* \* \*

[33]

Q. Prior to November 16th, 1992, where did you perform your duties and responsibilities as chairman of the grievance and bargaining committee?

A. At the union hall and in the plant.

\* \* \*

[44]

Q. Did you have regular hours at the union hall?

A. I spent the day there. If you wanted to spend something other than the day there, affording the day-type shift, you would have to get approval through Labor Relations, some of the past chairmen had maybe wanted to come in on—for the shift on second shift or the shift on third shift, and you'd have to get that approval. But the basic shift was the first shift. The cards even designate seven four to three four.

Q. I'm taking about when you performed your work at the union hall.

A. Yes.

Q. What time would you get to work?

A. I'd normally get there 6:30.

Q. Okay.

A. Quarter to seven.

Q. Did you ever get there later?

A. Oh, I can't say I didn't have days I got there later, I'm sure I've had day or two later. Normally it was 6:30, quarter to seven.



Q. On the days that you got there later, [45] did you have to call anyone at Caterpillar to request permission to come in late?

A. I'd—my shift was basically seven 24 and I don't know if that I went beyond that. If it was something other than that, it was probably a call out. And I would identify that to Labor Relations.

Q. Did you ever leave early?

A. If I'd taken personal time or call out, yes.

Q. Did you ever call and request permission from Caterpillar to leave early?

A. Yes.

Q. And—

A. I'm sure I did, yes.

Q. And that would be in the case of a call out?

A. Well, it could be. I'd call over and if I wanted two hours or more I could call over and say, I'd like to have two hours paid absence this afternoon and normally they'd allow me to have it.

Q. How did the paid absence allotment work?

A. You have 50 hours per year paid absence allowance, if you are an active member October 1st and go to work at least one tenth of an hour. [46] That's all employees.

Q. I take it you missed some days of work while you were a committeeman; is that correct?

A. Yes, sir.

Q. Did you have to call Caterpillar to get permission to miss a day of work?

A. I'd have to report it.

Q. That would be part of your time sheet?

A. Well, when I'd fill out the card—what you did is filled out the back of the card and put down absence, vacation days, paid absence day. If you didn't have paid absence it was just plain absence. You know, whatever.

Q. Just so I'm clear. You've got a cold. You're absent. You're going to not be at the union hall because you're sick. Would you have to call Caterpillar and notify them in advance that you were not going to be at the union hall?

A. As soon as possible, I would have to notify them. If it was—that might have been something that when I got sick I'd call either Harold Bouser (phonetic) or if I couldn't get a hold of Harold Bouser I'd talk to the hall and identify—tell them to identify the company that I'm off sick today. I had to report that I [47] was off.

\* \* \*

[64]

Q. And finally, it says, such chairman will exercise only the privileges above set forth of [65] those which have otherwise been mutually agreed upon. Were there any privileges other than the ones we've talked about in the contract, that were mutually agreed upon?

A. Probably the most important was we didn't even use the pass by that language. We had an understanding that I could go in and get involved in situations to try and resolve them prior to them becoming grievances. That happened a lot of times, I went in and discussed issues with managers that isn't spelled out there to try and resolve issues. It was an ongoing thing, being in the

shop. I've gotten in all kinds of things. The CLIP meetings, the ESP meetings, the joint training meetings, all those are not spelled out there.

Q. What is CLIP?

A. Continued Learning Improvement Process.

Q. Okay.

A. It was a—it was an education program that Caterpillar started.

Q. Okay. And what was—what did you do on CLIP?

A. I sat as part of that committee.

Q. And how often did that committee meet?

[66]

A. Oh, I have notes—I'm not sure of the exact dates. It was a regular basis, it was a regular basis. I can't say exactly the dates.

Q. No, I'm just saying was it like monthly—?

A. No. If I'd say it was—my estimate was basically a weekly thing for awhile.

Q. Okay. And you mentioned ESP, that stands for Employee Satisfaction Process. And what were your responsibilities with regards to ESP?

A. I was on that committee.

Q. And what did you do on that committee?

A. Well, we reviewed things, we set policy, whatever was necessary until it was suspended.

Q. And you were Local 786's representative on ESP?

A. I was one of them, yes.

Q. Who were the other representatives?

A. The president sat in on it. And we had facilitators and coordinator.

\* \* \*



EXCERPTS FROM  
THE DEPOSITION OF HAROLD BOOZE

[September 21, 1995]

[7] ATTORNEY KAHN:

Let the record show that we are here on the 30(b)(6) deposition notice to Caterpillar Inc. in the matter of Case 1: 92-CV-1854 Caterpillar Inc. versus International Union, UAW and Local 786. This deposition is being taken pursuant to the Federal Rules of Civil Procedure.

EXAMINATION

BY ATTORNEY KAHN:

Q. Mr. Booze, will you please state your full name?

A. Harold, middle initial, C. Booze, B-O-O-Z-E.

Q. Mr. Booze, have you ever had your deposition taken before in a lawsuit?

A. Yes, I have.

Q. So are you aware that basically the purpose of this deposition is to—I'll be [8] asking you questions and you'll answer them to the best of your personal knowledge?

A. Yes, I do.

Q. And if you have any question, if you don't understand a question that I ask you, please ask me to clarify it.

A. Okay.

Q. And do you have any disability that would prevent you from being able to answer and understand the questions that I give to you today?

A. No, I do not.

Q. Or are you on any medication or any kind of drugs that would affect your ability to answer—understand the questions and answer them truthfully?

A. No.

Q. And you know that everything here will be on the record?

A. Yes.

Q. Where do you reside, Mr. Booze?

A. I reside in York, Pennsylvania.

Q. What's your address?

A. 2262 Boddington, B-O-D-D-I-N-G-T-O-N, Place.

Q. Now, I have a Notice of Deposition that [9] asks for a witness who could testify as to the following with regard to the weekly check issued by Caterpillar to Terry Orndorf and Edward Benedict during the period May 1st, 1990 through March 31st, 1993, the approval process to authorize the issuance of checks. Do you have personal knowledge about that process?

A. Yes, I do.

Q. The decision to categorize pay as regular pay or overtime pay, do you have personal knowledge about that?

A. Well, I'm not aware that overtime pay is an issue here in this particular situation, but as a general understanding of overtime and straight time pay, I have that understanding.

Q. Okay. Well, we'll ask you questions and I'm sure you'll be able to answer. In the amount of such checks in

the accounting of such payments on Caterpillar and in its books?

A. I really don't have knowledge of the paychecks issued and the amounts of those checks. I don't have that knowledge.

ATTORNEY KAHN:

If Mr. Booze is not able to answer the questions, because he doesn't

\* \* \*

[14]

Q. Prior to Mr. Orndorff being grievance chair, do you know what department he was assigned to?

A. No, I do not.

Q. Now, you were Labor Relations manager until September 1992; correct?

A. Correct.

Q. Are you aware of the fact that Mr. Orndorff and Mr. Benedict were assigned to the Labor Relations Department, at least between May of 1990 and September of 1992?

A. I'm not exactly sure how all of those, you know, records were. That may very well be the case, that they would have been assigned to my department. That could very well be.

Q. As the manager of the department, did you have any budgeting responsibilities?

A. Yes, I did.

Q. So, if Compensation for your employees was—was that part of the budget for your department?

A. Yes.

Q. In thinking back about reviewing the budget during those years when you were Labor Relations manager from 1990 until 1992, does it [15] refresh your recollection that Mr. Orndorff and Mr. Benedict were assigned to the Labor Relations Department?

A. Well, I think they probably were. I think when they took office, they would have been transferred to my department. That seems to be—that seems to be right to me, yes.

Q. Now, are you—do you know why they were transferred to Labor Relations rather than some other department?

A. No. That would have just been a decision that was made at sometime prior to my coming to York.

Q. Do you know who, if anyone, would know the reason why they decided to assign the grievance chair and alternate to the Labor Relations Department?

A. I don't know, because I don't know when that was done. I don't know who would have been the people involved at that time.

Q. So it was before 1980—January of 1988?

A. Yes, it would have been.

Q. Now, you are aware, are you not, that Caterpillar paid wages to Mr. Orndorff and Mr. [16] Benedict during this period of time from May of 1990 to November of 1992, November 15th of 1992?

A. Yes. I don't know how you categorize it, I'm aware that they were paid by Caterpillar during this period of time.



Q. They were paid by Caterpillar. Okay. Well, let me show you a document I'd like label this, Booze Deposition Exhibit One, A through E. Let me show you these documents and ask you if you can identify them?

A. Yes.

Q. Can you describe what you see there?

A. I see W-2 Forms for Terry Orndorff and Ed Benedict.

Q. They're issued by Caterpillar; are they not?

A. Yes.

Q. And do you have any reason to doubt that those are the accurate W2 Forms issued to these gentlemen?

A. No, I have no reason at all to question it.

Q. These W-2 forms report in box ten an amount for wage, tips and other compensation—on each of them. Do you know what kind of wages, [17] tips or other compensation those numbers reflect?

A. They would reflect the checks that Caterpillar issued to these individuals during the course of the year.

Q. Do you know what these checks were for, what kind of pay?

A. I guess, I'm not sure I understand your question.

Q. Let me ask another series of questions just to lead up to it. In the Labor Relations office, were the—do you know if Mr. Orndorff and Mr. Benedict were paid on an hourly basis or a salary basis or what kind of basis?

A. Paid on an hourly basis.

Q. Do you know if there were other employees in the Labor Relations office during this period of time that

were paid on an hourly basis or were the other employees paid on a salary basis?

A. These were the only two individuals paid on an hourly basis.

Q. Now, are paychecks issued at Caterpillar on a weekly basis, bi-weekly basis, does it depend on the kind of employee?

A. It depends on the payroll, hourly is on [18] a weekly basis.

Q. What are the other payrolls that you have?

A. We have salary, which is issued twice monthly.

Q. Twice monthly?

A. Yes. And management which is issued once a month.

Q. And Orndorff and Benedict, during this period of time, May of '90 and subsequently were carried on the hourly payroll?

A. Correct.

Q. Now, do you know if there were other—are all of the hourly employees in the UAW bargaining unit at Caterpillar? Or let me rephrase the question. Are there any hourly employees at Caterpillar who are not on the UAW bargaining unit?

A. No.

Q. So they're all in the UAW bargaining unit?

A. Yes.

Q. Are any of the—now, are you familiar with the steps that were necessary for Mr. Orndorff and Mr. Benedict to go through and for [19] Caterpillar to go

through in order for a paycheck to be issued to the two of them on a weekly basis?

A. Yes, I am.

Q. Would you please describe to the best of your knowledge what that process entailed?

A. Each week they would submit a documentation of their time to the factory accounting clerk.

Q. To whom?

A. Factory accounting clerk, who would fill out a form and bring it to me to approve. And it would have the documentation cards with it.

Q. What was the form that the—was there a particular form of documentation that Benedict and Orndorff were to submit to the factory accounting clerk?

A. I don't recall a particular form, I think they just wrote it on a card and submitted it to the factory accounting clerk.

Q. Who was the factory accounting clerk during this relevant period?

A. Well, any one of them, because the one who did it the most was Carl Huff. There were others from time to time, but Carl most often did it.

[20]

Q. What are the duties of a factory accounting clerk?

A. They're basically responsible for the records, the attendance records, which for the hourly payroll which control then the pay that's issued to each employee each week.

Q. Is Carl Huff still with Caterpillar—still employed by Caterpillar; do you know?

A. Well, not for sure. We've had a lot of retirees. I don't know—they all are individually. So I'm not aware for sure at this point one way or the other.

Q. So you believe that Orndorff and Benedict would submit documentation to one of the factory accounting clerks who then you say would fill out a form and submit it to you for your approval?

A. Correct.

Q. Was the form that—what was the form called that the factory accounting clerks would submit to you?

A. I don't really know the name for it. It was a card that had the listing of each day and what the code was for that day.

Q. Let me just show you this document and [21] ask you if that form means anything to you? Do you recognize that form?

A. Yes. I think that's the form that I was given each week to approve. You know, this is obviously a blank one.

Q. That's correct. Although it does have Orndorff's name and numbers.

A. That has his name on it, but these codes would not necessarily apply in all of these. There could be changes in those codes.

ATTORNEY KAHN:

Why don't we for the moment get this document marked and then I'll ask you couple questions about it. Could we mark this as Deposition Exhibit Two, please?



BY ATTORNEY KAHN:

Q. Looking at this document marked Exhibit Two, titled Your Hourly Employee Special Pay Memo, York, excuse me, Hourly Employee Special Pay Memo. You just were discussing that under the column, off—why don't you describe what your statement—your point was. This form is filled out H1H1H1H1H1 and then I. Can you explain what those letters mean?

[22]

A. Well, H1 is, I believe, stands for Company - Paid Union Business.

Q. Is there a document that sets forth what the authorization codes are? You know, what H1 stands for?

A. Yes. We have some kind of a document that has those codes.

Q. Do you know what that document would be called?

A. No, I don't.

Q. A document that contains the authorization codes would identify it?

A. Yes.

Q. And you were stating before that these codes wouldn't always apply?

A. That's correct.

Q. Would you please explain what you mean by that?

A. Well, the basis of the pay for Terry and Benny is based upon the contractual provision that where the company agreed that they would pay for certain union activities that were performed by these individuals. And so anything, any time—spend in something other than

those activities, if they were out of town to union meetings, various [23] things, negotiations, whatever, then, I believe the code for that was H2. Because H referred to union business and one I think was company paid and two was non-company paid. So there would be times that he would be out of town on other business and activities for the union, so that would carry an H2 code. If he took a day off there would be a different code for that day. If he took vacation, there would be a different code for vacation day, those kind of things.

Q. Now, I see under department on the left, is a 06, do you know what 06 is?

A. Yes, I believe that's Labor Relations.

Q. Now, the factory—when the factory accounting clerk passed this on to you, did it have the employee's signature on it?

A. Yes, I believe it did.

Q. And was there—you had indicated they had marked something on a card or on the back. Was there usually something on the back that you filled out?

A. I think it was on the back, because I can remember, you know, with the vision I have is a white piece of paper, card, whatever, when I would see what they had actually written and I [24] think it very well might have been the back of this card.

Q. Let me show you a document and ask you if you can just sort of generally recognize whether that's the kind of itemization, as an example, that would occur on the back of one of these cards? Not that that is exactly what occurred on some form in June of 1991, but that type of notification—of documentation?

A. Yes. It would be in some form of this, yes.

**ATTORNEY KAHN:**

Let me mark this as Booze Deposition Exhibit Three, please.

**BY ATTORNEY KAHN:**

Q. Now, let me ask you a few questions about this document that we've marked Exhibit Three. I see on there that there is a—six hours at the bottom that is labeled contract; do you know what that meant?

A. Yes. The contract provides that if the committeeman or alternate committeeman spends at eight hours doing union business in that week, then they're entitled to an extra six hours pay for that week.

[25]

Q. So on the example here, we have three eight hour days marked pay by company. One eight hour day says union business and another says paid absence?

A. Yes.

Q. So in that week under the contract the employee would be entitled to six additional hours of pay?

A. Yes.

Q. Did the company pay for the paid absence time?

A. Yes, they did. Up to 50 hours a year.

Q. Which is in the 50 hour limit is in the collective bargaining agreement?

A. It's in the labor agreement, yes.

Q. Did the factory accounting clerk have any role other than basically just passing on this documentation

to you. Did that person have any responsibilities to verify the accuracy of this information?

A. Not that I'm aware of.

Q. And when it came to you, what did you do?

A. I reviewed it and then if it was correct, I signed it. If it wasn't, I would note [26] the discrepancy and we would resolve that and then I'd approve it.

Q. Did you always—are you always the person who signed these or approved these or was there anyone else who had the authority to do that as well?

A. Well, there was a period of time where I was the only one authorized to do that, yes.

Q. Do you know what that period of time was that you were the only one?

A. Well, at least up until, I guess, '91, I believe, 1991.

Q. You were the only one?

A. Yes.

Q. And that at what point—and then someone else also had authority or took over your authority; which?

A. I think at that point they took over the—I put a Labor Relations representative on my staff and, you know, he picked up some of the duties I was doing. At some point he—that responsibility was given to him. I can't tell you just exactly when it was.

Q. Sometime in 1991 you think?

A. I believe that's right.

[27]

Q. Who was the person that took over that responsibility?



A. Larry Staker, S-T-A-K-E-R.

Q. Is he still with the company?

A. Yes, he is.

Q. And what's his position?

A. Labor Relations manager.

ATTORNEY KAHN:

Can we go off the record, please?

OFF RECORD DISCUSSION

BY ATTORNEY KAHN:

Q. Mr. Booze, you mentioned that you reviewed at least until Mr. Staker took over the responsibility, these forms turned in by Benedict and Orndorff, signed off if they were accurate; is that correct?

A. Yes.

Q. And if you saw any discrepancy, it got taken care of, something like that. Can you describe what you mean?

A. Yes. If there was a notation on there, say, for example, a day that they were asking for the company pay when I knew it was a day that they were on other union business, not company paid, [28] you know, just make those kind of corrections, that were done most generally on the spot when the factory accounting clerk was there with the card, because he'd generally bring them to me personally. And then we'd—I'd go ahead and sign off on it then.

Q. If you made a change in the card as submitted by Mr. Orndorff or Mr. Benedict, did you talk to them about it?

A. I didn't, no.

Q. Do you know if anyone did?

A. I don't know if the factory accounting clerk did or not.

Q. Now, between—how often would you say that you found a discrepancy in which either let's say, Mr. Orndorff requested company pay for sometime that you thought the company shouldn't pay for because of union business, as you put it?

A. Seldom.

Q. Were there sometimes when they marked off union business or whatever and you thought the company really should pay for it?

A. I don't know the nature of those at this point. Like I say there they were very, very few of them, you know, but just sometimes those kind [29] of things happen.

Q. So the paycheck that ultimately resulted after—let's ask you, after you approved it, you signed the supervisor's approval line, is that the way you would have signed it?

A. I would have signed on that line, yes.

Q. And then what happened to the form?

A. The factory accounting clerk would take it, submit it into the system, the check would be generated based upon that information.

Q. Are the checks generated at York or where are they generated?

A. We print the checks at York.

Q. Does the information get sent to any central place, Peoria or any other—?

A. Yes, it does.

Q. Prior to the checks being printed?

A. Yes.

Q. So Peoria, somewhere in the Caterpillar system has a record of this information?

A. Yes.

Q. And where in Peoria or what department in Peoria does the information on the hours that Mr. Orndorff and Mr. Benedict are putting in for?

A. I think they call themselves payroll,

\* \* \*

[36]

Orndorff and Mr. Benedict, to the best of your knowledge do they contain paystubs as well?

A. Yes.

Q. Let me show you this document (indicating) and ask you if you can identify it?

A. Yes. That appears to be a checkstub for Terry Orndorff.

ATTORNEY KAHN:

Okay. I'd like to mark this Booze Deposition Exhibit Number Four, please.

ATTORNEY PETERSON:

This is before Mr.—oh, no, it's not. Is that 4/26/92?

ATTORNEY KAHN:

Yes.

ATTORNEY PETERSON:

Okay.

BY ATTORNEY KAHN:

Q. I see here four entries or three entries at the top, Regular Pay, ABS Pay and Overtime P, do you know what regular pay stands for?

A. Regular pay would be in reference to the regular 40 hours pay per week.

Q. In this case it was 34 and a half?

[37]

A. That's correct.

Q. And then there is ABS pay, do you know what that is?

A. Yes. I believe that's absence pay.

Q. Would that be the pay that you said the company paid up to a contractual limit of 50 hours for absence?

A. Yes.

Q. Do you know what overtime P is?

A. Well, I'm not for sure, it would appear to be pay for overtime.

Q. Now—

A. What's puzzling about it is I don't know—I would not understand the two hours.

Q. What do you mean when you say you would not understand the two hours?

A. Well, because as a committeeman, a full-time committeeman, Mr. Orndorff was not eligible for any overtime.



Q. Do you know if that rate that shows there, the current pay of \$32.48 was an overtime rate or was just straight pay, in fact?

A. It appears to be straight time pay.

Q. Listed under the category overtime pay?

A. Yes.

[38]

Q. Now, would there be any circumstances in which the committeeman would get overtime pay that you're aware of while—?

A. I'm not aware of any.

Q. Same with the alternate committeeman?

A. Yes, because they were actually on leave of absence. They were not active employees. They were not in the shop working and were not eligible for any overtime.

Q. When you say they were on leave of absence, do you mean by that they were not in the shop working?

A. No. The contract specifically specifies that they're considered to be on leave of absence.

Q. Considered to be on leave of absence I think is the language; correct?

A. Yes.

Q. Well, let me show you another document for just a minute, which is a paystub for Mr. Orndorff a week later, 5/3/92. Does this appear to be a paystub for him?

A. Yes, it does.

Q. You agree. And let me show you yet another one for the next week and ask you if that appears to be his paystub for the pay period [39] ending 5/10/92?

A. Yes.

ATTORNEY KAHN:

Why don't we mark these Booze Deposition Exhibits 5A and B. We'll put the—.

ATTORNEY PETERSON:

Is this going to be an exhibit?

ATTORNEY KAHN:

Yes. That was four. Well, the 4/26 one is four.

BY ATTORNEY KAHN:

Q. Now, I see in Exhibits 5A and 5B, which are paystubs for May 3rd, 1992 and May 10th, 1992 respectively. Once again showing two hours of overtime pay for both of those pay periods; correct?

A. Yes.

Q. And again, at a rate that you say appears to be straight time rate, not an overtime rate?

A. That's correct.

Q. What is the overtime rate, by the way? Is it time and a half?

A. It depends on what day it's worked, if [40] it's time and a half or double time.

Q. But at least time and a half?

A. Yes.

Q. Do you know why these paystubs reflect two hours of overtime pay in each of these three pay periods?

A. No. I have to presume it has to do with the—.

ATTORNEY PETERSON:

Don't presume.

BY ATTORNEY KAHN:

Q. Well, let's look at the 5B, the pay period ending 5/10.

A. Yes.

Q. I see that there's 44 hours of regular pay and two hours under the overtime pay line; correct, for a total of 46?

A. Yes.

Q. That is the maximum amount of hours that Caterpillar would pay the committeeman, Mr. Orndorff; correct? Under the contract?

A. Yes.

Q. Now, this shows 44 hours of regular pay, the contract—does the contract provide 44 hours of regular pay anywhere that you know of?

[41]

A. No.

Q. And you have—and how many hours does it pay—provide for regular pay?

A. The regular week is 40 hours.

Q. Now, you've testified that you do not know why the paystub reflects two hours of overtime pay; correct?

A. That's correct.

Q. Do you know why it reflects 44 hours of regular pay?

A. No, not as fact, I don't. Because I don't know the payroll procedures.

Q. But have you ever—or at least while Mr. Orndorff was committee chair, did you ever authorize overtime pay for him?

A. No, I did not.

Q. But you did authorize the extra six hours?

A. Yes, I did.

Q. When?

A. When it was appropriate, I authorized it.

Q. Do you know who in Caterpillar would know about the decision to categorize pay as regular pay or overtime pay?

[42]

A. I don't know specifically a name of someone in corporate payroll, no.

Q. Corporate payroll being located where?

A. Peoria.

ATTORNEY KAHN:

Mr. Peterson, the deposition notice requested a Depo-  
nant able to speak to the decision categorize pay as  
regular pay or overtime pay, do you have another  
Deponant available?

ATTORNEY PETERSON:

No, I don't. I misunderstood, because it's my under-  
standing of the contract that none of Mr. Orndorff's or  
Mr. Benedict's pay was overtime. It was all straight  
time. So I—no, I don't, and that's the reason why.

ATTORNEY KAHN:

Well, can you provide a Deponant or we can do Discov-  
ery, written Discovery—



ATTORNEY PETERSON:

Oh, absolutely.

ATTORNEY KAHN:

—between now and the end of [43] Discovery to respond to the inquiry as you—do you now understand?

ATTORNEY PETERSON:

Yes. As a matter of fact, if you could give me copies of those stubs—

ATTORNEY KAHN:

Sure.

ATTORNEY PETERSON:

—so that I can check that out.

ATTORNEY KAHN:

Fine.

BY ATTORNEY KAHN:

Q. While we have the paystubs in front of us could you—let's take a look at—let's take a look at the—at 5A. I see at near the bottom there's an entry called Vacation Accum. Do you have know what that entry means?

A. No.

Q. Do you know what the—whether the contract provides anything regarding vacation pay or accumulated vacation pay for the committeeman and alternate committeeman?

A. Yes.

[44]

Q. What does it provide?

A. They are eligible for the vacation pay as identified in the labor agreement.

Q. Do you know where the labor agreement spells that subject out?

A. I believe it's Article Nine.

Q. And does the committeeman and alternate committeeman, under Article Nine, basically have entitlement to vacation pay as if they were rank and file bargaining unit members?

A. They are entitled to what Article Nine provides for vacation pay.

Q. Does it provide anything different for the committeeman or alternate committeeman than for other employees?

A. Not, it does not.

Q. And then there's another entry at the very bottom of the card, A-T-T-B-O-N Accum. Do you know what that stands for?

A. Yes.

Q. What is that?

A. Attendance bonus accumulation.

Q. And could you explain that, please?

A. For each week of perfect attendance as defined by the contract of the employee, received [45] at this time, I don't know if it was an hour or an hour and a half, but attendance bonus accumulation.

Q. And to the best of your knowledge does the contractual provision on attendance bonus accumulation apply

the same to the committeeman and the alternate committeeman as it does to other employees covered by the collective bargaining agreement?

A. Yes, it does.

Q. There are no special provisions for them?

A. No.

Q. And then on the far right where it says T-O-T-A-B-S-H-R taken, and it says on line eight. Do you know what that stands for?

A. Yes. That would be total absence hours taken.

Q. Do you know what—in what period of time that refers to?

A. The calendar for paid absence allowance starts with the first Monday in October each year and it runs for a year.

Q. And that's pursuant to the collective bargaining agreement?

[46]

A. Yes, it is.

Q. Do you know which article that is?

A. That's in Article 15, it's within the first five sections of Article 15. I'm not sure, I think it may be 15(1).

Q. And does that provision of the contract apply to the committeeman and the alternate committeemen in the same manner that it applies to other bargaining unit members?

A. Yes, it does.

Q. Now, are you familiar with the epic—does the word epic, E-P-I-C, mean anything to you?

A. Yes.

Q. And what does that stand for?

A. I don't know.

Q. Can you describe what it is?

A. It's an acronym for the computer system that we have for personnel records.

Q. And let me show you a document and ask you if you can identify this?

A. Yes.

Q. And what is that?

A. That's a copy of an hourly employee profile of Terry Orndorff.

Q. Second page, the second page is what?

\* \* \*

[50]

that correct?

A. Yes.

Q. Can you explain what that is?

A. That's the part of the job description for that classification. It's just part of the nomenclature.

Q. And shift?

A. It's a shift of which they're assigned.

Q. And then division/section name; what is that?

A. That's the division and section that they're assigned to at those points in time.



Q. And this actually shows that effective 5/21/90, Mr. Orndorff was assigned to Labor Relations; is that correct?

A. Yes.

Q. And then over here (indicating) on the last—next to the last column is division number; is that correct?

A. Yes.

Q. Is that just a number to coincide with the division/section name in the previous column?

A. That's correct.

Q. So number six is labor relations?

A. Yes.

[51]

Q. Do you know what number 29 is; is that a division number 29?

A. That's an area in the shop. The same one he was assigned to back during this period of time.

Q. Which period of time are you referring to?

A. Well, prior to 2/16 of '90.

Q. And what does this last column, factory—

A. Facility.

Q. Facility.

A. That's York. That means York.

Q. That number is York?

A. Yes.

Q. Okay. Is there any entry on here that shows that Mr. Orndorff had a personnel action—excuse me, was the committeeman?

A. Would you repeat your question, please?

Q. Is there any entry on that form that shows Mr. Orndorff became the committeeman?

A. No.

Q. Now, is there any entry on there—let me point you to the last entry in this section we were looking at before in which it appears that a [52] change was made of division and department from Labor Relations to drill/pins department 29. Can you explain that entry?

A. Yes. That records Mr. Orndorff being reassigned from Labor Relations to the drills division. At the time the company made the decision, the effective date that they would no longer pay the full-time union representatives for conducting the union business.

Q. Now, there's a form like this—is there a form like this for all hourly employees at Caterpillar, you know, a form that's called hourly employee profile?

A. Yes, there is.

Q. Let me ask you what these codes mean, if you know? Some of these codes under the column action, do you know what the action code that's reflected on 2/16 1990—excuse me, 5/21 1990 of DNC means?

A. I do not now that those codes mean.

Q. Let me just show you a document and ask you if you can recognize this document?

**ATTORNEY PETERSON:**

May I see it, Counsel?

**ATTORNEY KAHN:**

[53]

Of course.

A. Okay. Now what is your question?

**BY ATTORNEY KAHN:**

Q. Do you recognize that document?

A. Yes, I do.

Q. What is it?

A. That's a document that identifies the various action codes that are on the employee profiles.

Q. Now, the action codes are the same thing as the second column here (indicating) under action?

A. That's correct.

Q. That's what you're referring to?

A. Yes.

**ATTORNEY KAHN:**

Now, I'd like to mark this Booze Deposition Exhibit Seven, please.

**BY ATTORNEY KAHN:**

Q. I see that this has a date issued 7/1/91, supercedes issue date 10/1/88. I ask you—and I'm going to show this document and ask you if you can recognize it?

A. I have not seen this particular document before. I've seen that one (indicating).

[54]

Q. With reference to Number Seven, perhaps you can take a look at—with reference to it while we're—while I'm asking you some questions about the employee—hourly employee profile for Mr. Orndorff. I referred you to the entry for 5/21/90, which said DNC and you had said you didn't know off-hand what that was. Could you

refer to this document (indicating) and indicate what the code stands for?

**ATTORNEY PETERSON:**

By this document you're referring, for the record, TO Deposition Exhibit Number Seven.

**ATTORNEY KAHN:**

I'm referring to Deposition Exhibit Number Seven. Thank you.

**BY ATTORNEY KAHN:**

Q. And what does that code stand for?

A. Department division/section number change.

Q. And, in fact, this document reflects that as of that date there was a division change from 29 to 6 from drill/pins to Labor Relations; correct?

A. Correct.

\* \* \*

[58]

Mr. Benedict were carried on the active hourly employee payroll; correct?

**ATTORNEY PETERSON:**

No, he's not testified to that.

A. No, I have not.

**BY ATTORNEY KAHN:**

Q. Okay. Well then, let me ask you again. Do you testify that they were carried on the hourly payroll; correct?

A. Yes.



Q. Were they carried—and you testified there were three payrolls, an hourly payroll, salary payroll and a management payroll; correct?

A. Yes.

Q. And the hourly payroll is there—are there subdivisions? Are there any breakdowns of the hourly payroll into different categories of employees?

A. I'm not sure that I understand that question. The hourly payroll is one category of employees.

Q. What is included in the hourly payroll?

A. All of the employees that are assigned to the hourly jobs performing, you know, the work primarily in the shop and those jobs which are [59] covered by the labor agreement.

Q. Is it your testimony that some of the employees on the hourly payroll are not active employees?

A. I haven't been asked that question.

Q. I'm asking you. Is it your—are some of the employees on the active—hourly payroll not active employees?

A. Yes.

Q. And what kind of employees are not active employees?

A. Employees who are on various leaves of absence.

Q. And what are the kinds of leaves of absence that exist?

A. Union leaves, there's medical leaves, personal leaves, family leaves. There's more than that, that's the ones I recall.

Q. Is it your testimony that Mr. Orndorff and Mr. Benedict, during this period of time, were on union leave of absence?

A. They were considered to be on leave of absence, that's correct.

Q. You referenced something called union leave of absence?

[60]

A. Yes. They, at that time, were not on leave under that provision, they were on leave under the provisions of, what is this, Article Four, I believe.

Q. Well, why don't we look at the collective bargaining agreement and ask you what you mean—who would be considered to be on union leave of absence, what kind of employees?

A. Article 14—.

ATTORNEY PETERSON:

Counsel, again, I'm not trying to be a obstrep with this, but what does this have do with the approval process of Orndorff or Benedict's checks, the decision to categorize their checks as regular or overtime pay or the amount of such checks and the accounting of such payments in Caterpillar's books?

ATTORNEY KAHN:

These are some books of Caterpillar which refer to various kinds of action codes and the accounting of the pay and the employment of Mr. Orndorff. It refers to certain kinds of codes.

\* \* \*

[62] testifying about it, but I'm just saying we're getting pretty far afield.

ATTORNEY KAHN:

He testified just now, that there were certain people on the hourly payroll who were not considered active employees.

ATTORNEY PETERSON:

And what does that—?

ATTORNEY KAHN:

And there were people who were on various leaves of absence, and he started to describe the leaves of absence. One of them that I was going to question him about was the union leave of absence, because if—let me ask you this.

BY ATTORNEY KAHN:

Q. Mr. Booze, during the time that Mr. Orndorff was assigned to Labor Relations, between May 21st, 1990 and ending, apparently, 11/15, 1992, was he considered on the active payroll of Caterpillar?

A. He was considered to be on leave of absence.

[63]

Q. Was he considered to be on the active payroll? Was he—?

ATTORNEY PETERSON:

Counsel, the witness—counsel, you're assuming the fact not in evidence. The witness has told you there are three payrolls, hourly, salary and management. There is no, quote, active payroll. The witness has testified to that.

BY ATTORNEY KAHN:

Q. Was he considered an active employee on the hourly payroll?

A. No.

Q. What kind of employee was he considered?

A. To be on leave of absence.

Q. What leave of absence was he considered to be on?

A. I don't know if it's 14.10 or if it's 4.6, but he was considered to be—I think it's a 4.6 is very specific that they're considered to be on leave of absence. And he was functioning and they compensated in accordance with that provision.

Q. If he was being—is there a separate

\*\*\*

[70] first full sentence on page, I believe it's 19 to the end of the paragraph.

ATTORNEY KAHN:

May I see the document you're looking at?

ATTORNEY PETERSON:

Yes. It's the Labor Contract. I'm looking at the Peoria Agreement.

A. He shall be paid for all such hours at the regular straight time hourly rate he was receiving just prior to his election. Adjusted for general increases and cost of living adjustment amounts if such there be as provided in Article 18 of this agreement. He shall be eligible for time off and/or payments in accordance with Articles Nine, Ten, Fifteen and Twenty of this agreement, provided such chairman will not receive payment for the same day under more than one of the provisions of this



Central Agreement. For purposes of the supplemental agreement relating to noncontributory pension plan, the group insurance plan attached to the insurance plan agreement and the supplemental unemployment benefit plan, such chairman will have the same coverage as though he was actively at [71] work.

BY ATTORNEY PETERSON:

Q. So, does Article 4.6 specifically provide for coverage—or for eligibility of the chairman of the grievance committee under Articles Nine, Ten, Fifteen and Twenty?

A. Yes, it does.

Q. Likewise, it provides for them specifically with regards to the noncontributory pension plan, the group insurance plan, the supplemental unemployment plan?

A. Yes.

Q. Does Article—strike that.

ATTORNEY PETERSON:

I have nothing further. Oh, I'm sorry, I do. May I take a look at Exhibit Two, which was the timesheet?

BY ATTORNEY PETERSON:

Q. Mr. Booze, I'm showing you a document which has been marked for identification as Booze Deposition Exhibit Number Two. And I point you to the column supervisor's approval. You testified that you signed that document?

A. Yes.

Q. Do you supervise Mr. Orndorff in the [72] performance of his duties?

A. No, I did not.

ATTORNEY KAHN:

I object to the line of questioning. It has nothing to do with the 30(b)(6) deposition.

ATTORNEY PETERSON:

Okay. You can move to strike it.

ATTORNEY KAHN:

I will.

BY ATTORNEY PETERSON:

Q. What was the purpose, if any—strike that. Was your purpose in signing that part of the approval process to authorize the issuance of the check?

A. Yes.

Q. So Mr. Orndorff was assigned to you—or to Labor Relations purely as an accounting purpose?

A. Yes.

ATTORNEY KAHN:

Are you finished?

ATTORNEY PETERSON:

[73] Yes.

ATTORNEY KAHN:

I'm sorry. I didn't know that you were.

RE-EXAMINATION

BY ATTORNEY KAHN:

Q. Mr. Booze, did you have any knowledge of any of Mr. Orndorff's activities?

A. I have knowledge of some of them.

Q. And if you believed that he was not entitled to pay that he was submitting time for, you had the ability to

take action to deny him the time—pay for the time; is that correct?

A. Well, that was not in the context of his activities. That was in the context of whether he was assigned to be performing the duties specified by the contract or he was out performing other duties or was on a day vacation or whatever. I was not verifying his activities in any way by signing the authorization.

Q. Under Article 4.6 of the contract, page 18—

A. Yes.

Q. —the contract on the second paragraph

\* \* \*

[75] correct?

A. Well, no, not exactly. I did not verify how that time was spent in terms of activities. I was only verifying whether it was, you know, conditions for which we pay.

Q. But you would verify, by your signature, you either verified—you verified that the gentlemen were not putting in for Caterpillar time spent on negotiations or these other elements; correct?

A. I was accepting the information they gave me regarding those items, yes.

Q. And if you doubted the accuracy of the information they gave you, did you have methods available to question them on the accuracy?

A. Yes.

Q. And so if you ultimately signed a card with Caterpillar paying certain time, that was your accepting that they were not seeking pay for any of these excluded items; correct?

A. Yes.

Q. And similarly it was really your verification that they were not putting in for time spent in these four items; correct?

A. I don't know if I'd say—accept the [76] word verification. What I was doing was approving an accounting of the items for which we pay or don't pay under the contract.

Q. And you would not approve something that you were not comfortable with, accurate; is that correct?

A. That's correct. But by the same token, for example, under (iii), I never questioned anything, but if he would have attended a meeting somewhere outside of the union hall that I wasn't aware of, and didn't exclude that time, I would not have known that.

Q. But if you had any reason to question him, you could have done so?

A. Yes.

Q. And if you—did you have any reason during May 1990 to November 1992, to have reason to doubt the information that Mr. Orndorff provided to you on these timecards?

A. I accepted what he gave me on those timecards, except if there was an error that I knew there was a negotiations meeting or a union convention that he attended and there may be a mismatch of dates. Those are the only things that I was aware of.



				<b>1990</b> <b>Form W-2</b> <b>Wage and</b> <b>Tax</b> <b>Statement</b>		<b>Copy C</b> <b>For Employee's Records</b> <b>This information is being</b> <b>furnished to the Internal</b> <b>Revenue Service</b>	
<b>1 Control</b> <b>number</b>		<b>CMB No.</b> 1545-0008		[unchecked boxes omitted by printer]			
<b>2 Employer's name, address, and ZIP code</b> CATERPILLAR INC. 100 N.E. ADAMS ST. PEORIA, ILLINOIS 61629							
<b>3 Employer's</b> <b>identification</b> <b>number</b> FED# 37-0602744							
<b>4. Employer's state</b> <b>I.D. number</b> ST# 37-0602744				<b>7 Allocated tips</b>		<b>8 Advance EIC</b> <b>payment</b>	
				<b>9 Federal income</b> <b>tax withheld</b> 4981.10		<b>10 Wages, tips,</b> <b>other compensation</b> 34156.60	
				<b>11 Social security</b> <b>tax withheld</b> 2612.15		<b>12 Social security</b> <b>wages</b> 34156.60	

<b>5 Employee's social</b> <b>security number</b> 173-32-7110				<b>13 Social security</b> <b>tips</b>		<b>14 Nonqualified</b> <b>plans</b>	
<b>19 Employee's name, address, and ZIP</b> <b>code</b> 018-1-0006-00600-42449-1 T L ORNDORFF RO 3 BOX 406E HANOVER PA 17331				<b>15 Dependent care</b> <b>benefits</b> .00		<b>16 Fringe benefits</b> <b>incl. in Box 10</b> 10.45	
				<b>17 E—</b> 95.04		<b>18 Other</b>	
<b>20</b>		<b>21</b>		<b>22</b>		<b>23</b>	
<b>24 State</b> <b>income tax</b> 715.11	<b>25 State</b> <b>wages, tips,</b> <b>etc.</b> 34131.56	<b>26 Name of</b> <b>state</b> PA	<b>27 Local</b> <b>income tax</b> 340.51	<b>28 Local</b> <b>wages, tips,</b> <b>etc.</b>	<b>29 Name of</b> <b>locality</b> YORK		

<b>1 Control number</b>	<b>CMB No.</b> 1545-0008	[boilerplate text omitted by printer]	
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<b>3 Employer's identification number</b> FED# 37-0602744		<b>4. Employer's state I.D. number</b> ST# 37-0602744	[unchecked boxes omitted by printer]
<b>5 Employee's social security number</b> 173-32-7110			
		<b>7 Allocated tips</b>	
		<b>8 Advance EIC payment</b>	
		<b>9 Federal income tax withheld</b> 4679.87	
		<b>10 Wages, tips, other compensation</b> 32758.21	
		<b>11 Social security tax withheld</b> 2031.01	<b>12 Social security wages</b> 32758.21
		<b>13 Social security tips</b>	<b>14 Medicare wages and tips</b> 32758.21

<b>19 Employee's name, address, and ZIP code</b> T L ORNDORFF RO 3 BOX 406E HANOVER PA 17331 018-1-0006-00600-42449-1				<b>15 Medicare tax withheld</b> 474.99	<b>16 Nonqualified plans</b>
				<b>17 See instrs. for Box 17</b> C— 91.72	<b>18 Other</b>
<b>20</b>				<b>22 Dependent care benefits</b> .00	<b>23 Benefits included in Box 10</b> 3.55
<b>24 State income tax</b> 834.97	<b>25 State wages, tips, etc.</b> 32736.49	<b>26 Name of state</b> PA	<b>27 Local income tax</b> 326.56	<b>28 Local wages, tips, etc.</b>	<b>29 Name of locality</b> YORK

Copy C For EMPLOYEE'S RECORDS

(See Notice on back.)

Department of the Treasury  
Internal Revenue Service**Form W-2 Wage and Tax Statement 1991**



<b>1 Control number</b>	<b>CMB No.</b> 1545-0008	[boilerplate text omitted by printer]	
<b>2 Employer's name, address, and ZIP code</b> CATERPILLAR INC. 100 N.E. ADAMS ST. PEORIA, ILLINOIS 61629		[unchecked boxes omitted by printer]	
<b>3 Employer's identification number</b> FED# 37-0602744  <b>4. Employer's state I.D. number</b> ST# 37-0602744  <b>5 Employee's social security number</b> 173-32-7110		<b>7 Allocated tips</b>	<b>8 Advance EIC payment</b>
		<b>9 Federal income tax withheld</b> 4091.22	<b>10 Wages, tips, other compensation</b> 31161.02
		<b>11 Social security tax withheld</b> 1931.98	<b>12 Social security wages</b> 31161.02
		<b>13 Social security tips</b>	<b>14 Medicare wages and tips</b> 31161.02

<b>19 Employee's name, address, and ZIP code</b> T L ORNDORFF RO 3 BOX 406E HANOVER PA 17331 018-1-0029-02900-42449-1		<b>15 Medicare tax withheld</b> 451.83	<b>16 Nonqualified plans</b>		
<b>20</b>		<b>17 See instrs. for Box 17</b> C— 87.92	<b>18 Other</b>		
		<b>22 Dependent care benefits</b> 00	<b>23 Benefits included in Box 10</b> 00		
<b>24 State income tax</b> 913.51	<b>25 State wages, tips, etc.</b> 31073.10	<b>26 Name of state</b> PA	<b>27 Local income tax</b> 310.69	<b>28 Local wages, tips, etc.</b>	<b>29 Name of locality</b> YORK

Copy 5 To Be Filed With Employee's  
FEDERAL Tax Return

Department of the Treasury  
Internal Revenue Service

**Form W-2 Wage and Tax Statement 1992**

ORDER ALLOWING CERTIORARI

Filed September 29, 1997

[Caption Omitted in Printing]

The petition for a writ of certiorari is granted. The brief of petitioner is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Thursday, November 13, 1997. The brief of respondents is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Monday, December 15, 1997. A reply brief, if any, is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Monday, January 5, 1998. Rule 29.2 does not apply.

September 29, 1997